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THE GREAT FRENCH WRITERS

MONTESQUIEU

The Great French Writers

MONTESQUIEU

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MONTESQUIEU

CHAPTER I.

HIS CHARACTER.

THE "Persian Letters" appeared in 1721, and created a wonderful sensation. Never has a writer better caught the secret spirit of his age, nor has any revealed with a defter or an airier touch longings hitherto unspoken and thoughts hitherto confused. The author saw decaying around him social institutions many centuries old. The beliefs, the manners, and the customs by which the monarchy in France had been formed and supported were crumbling to ruin. Montesquieu wished to diagnose this disease, and tried to cure it. He was not aware that by describing it as he did he spread the contagion, and that his work was the gravest symptom of the crisis which he wished to avert. Far from being an appeal and a warning to reform, it was the sig-

nal for a revolution, the presentiment of which was present in all hearts, and its causes apparent in every event. The "Persian Letters" contain the germs of "The Spirit of the Laws." Montesquieu was thirty-two years old when he published these letters. His birth, education, and early mental development belong to the seventeenth century. The life and writings of no man better explain how a democratic revolution, unexpected even by those who paved the way for it, came to succeed that reign of Louis XIV. which seemed to have established the institution of monarchy in France upon imperishable foundations. Let us, then, consider what Montesquieu was at the period when he composed his first work, and let us try to define the character of his genius before inquiring how that genius was revealed.

The family of Montesquieu belonged to the genuine nobility, both of the sword and of the gown. It had accepted the reformed doctrine in its time, and, with Henry IV., had abjured it. Jacques de Secondat, second son of the Baron de Montesquieu, Chief-Justice of the court of Guyenne, married in 1686 Françoise de Penel, who brought him the estate and the castle of La Brède, near Bordeaux. It was here that Charles Louis, the future author of "The Spirit of the Laws," was born, as the

fruit of this marriage, on the 18th of January, 1689. His father had an aristocratic severity like that of Vauban and Catinat; his mother was a pious woman; both were nobles of the kind who class themselves with the people, and who are impelled by Christian sentiment as well as by virtue of their rank to seek popularity. At the moment when Charles Louis was born, a beggar presented himself at the castle gate, and the Secondats kept him to be godfather to the child, "that such a godfather might remind him all his life long that the poor are his brethren." Thus Montaigne's father, the fellow-countryman of the father of Montesquieu, had done in days of yore.

Charles Louis bore at first the name of La Brède, from the estate he inherited. He passed three years at nurse among the peasants, thus strengthening his constitution and learning to speak the patois. He returned to his parents at the Castle of La Brède, with which his memory is still connected. It is a great thirteenth-century manor-house in the form of a castle-keep, a massive battlemented structure, its dark walls irregularly pierced with windows, and rising from the edge of a broad moat filled with water, over which you cross by a drawbridge. Here Charles Louis lived until he was seven; then he lost his mother, and was sent

to live with the Oratorian Brethren at Juilly, where he remained from 1700 to 1711.[1]

This education, apart from family intercourse, was not suited to develop in him a very tender heart, and he was not inclined that way, being of a cheerful disposition, thoughtful, but not at all melancholy. It would seem that this ecclesiastical training ought to have made him a believer, or at least have disposed him to religious ideas. His mother had inspired him with respect for the Christian religion; but the education that he received, so wholly literary, classical, and Roman, prepared him through indifference for incredulity. At the age of twenty he composed an essay to prove that the heathen philosophers did not deserve eternal damnation. The groundwork of Stoicism, which he retained all his life, and which was always his chief philosophical dependence, came to him directly from his Latin studies. He supplemented this, as soon as he had control of his own reading, with a very strong dose of Pyrrhonism, traditions of which were preserved in the Temple Club; and in spite of the Sorbonne, the censorship, and

[1] This sentence implies something that the dates contradict. Young La Brède appears not to have been sent to the Oratorian school until some four years after his mother's death. — Tr.

the police, this scepticism became generally known.

La Brède studied law, and was admitted to the parliament of Bordeaux in 1714, with the title of counsellor. The following year he married Mademoiselle Jeanne de Lartigue, who was of a military family and of Calvinistic extraction. This lady was more candid than beautiful, more timid than winning, more virtuous than agreeable. She presented him with a son, and subsequently with two daughters. The son was born in 1716, and in the same year La Brède became Chief-Justice. His father's elder brother, who had held that office, bequeathed it to La Brède, with all his property, on condition that La Brède should take the name of Montesquieu. Never was a legacy better bestowed, at least as to the name, — for as to the office, Montesquieu showed little taste for it. Neither the family nor the court occupied a very important place in his life; he spoke of both with respect, he behaved in both with propriety, but he forgot their existence as much as possible. He freed himself from their trammels as soon as he thought he was in a position to do so. He was fond of society and of pleasure, and this fondness drew him away from home; he took no interest in lawsuits, and detested the legal

profession, regarding barristers with scorn and solicitors with contempt. He did not think himself an orator, and did not find himself suited to formal speech-making, nor even to the ostentatious reports which were the peculiar pride of the bench. His mind found its highest activity in the satisfaction of its alert curiosity and in the delights of reflection. He found his best food in the society of Bordeaux, in which his birth and his position gave him a foremost place.

"This profession of the law, holding an intermediate position between the high nobility and the people," opened the widest field to the political observer. It formed the centre of cultivated society in the provinces. Bordeaux was one of the cities in which intellectual culture seemed most highly honored. An academy had been established there "to polish and perfect the admirable talents that Nature bestows so liberally upon men born in this clime," as the founder of the society expresses it. To this academy Montesquieu was admitted almost as a matter of course, and he at once plunged into scientific studies.

Owing to the impulse given by Newton, the observation and study of Nature was becoming free from confused compilation and legend. Montesquieu, who had written an essay on

"The Policy of the Romans in Religious Matters," and another on "The System of Ideas," devoted himself for some time to anatomy, botany, and physics. He studied the kidneys, the causes of the echo, and of transparency in bodies. But the constant weakness of his eyesight rendered experiments difficult for him, while the constant impatience of his mind rendered them unprofitable and laborious. He was not capable of that minute attention which forms a part of the genius for scientific discovery, and which, in Goethe, was combined with the creative imagination. Montesquieu rushed at once to his conclusions; he was eager to paint on a grand scale and with dashing strokes. He conceived, before Buffon, the idea of a "Physical History of the Earth, Ancient and Modern." In 1719 he addressed circulars to all the learned world, asking for observations. In the course of this reconnaissance of the world's past, he rediscovered men and humanity, and paused to consider them. This was the subject for which his genius destined him; he was drawn to it by a natural inclination, and became wedded to it forever. But after these incursions upon scientific territory, and his brief period of laboratory practice, he retained a conception of science, a method of work, and

a bias toward experiment, which reveal themselves in his works on politics and history.

Such was his mental training. Allowing for slight differences in intensity, he was at thirty what he remained till the end. There are few writers who have exercised so much influence on their age, and yet have had so little to do with the affairs of that age. The private life of Montesquieu has no interest; it throws no light whatever on his works. He was a gentleman and a thinker. He would have deemed inquiries about his person intrusive, just as he would have considered it intrusive to trouble himself about the person of another. He wished to be known only through his works; and except through his works it would, indeed, hardly be possible for us to form any idea of his life and of his sentiments.

He was of medium height, thin and sinewy, his face long, refined, with a very marked profile, — the profile for a medallion, — a large nose, a small mouth mocking and sensuous, the forehead slightly receding, the eyes wide open, and, though early weakened and prematurely veiled, full of fire, full of genius, eager for light. "It is with a kind of rapture," said he, "that I behold the light." It is a good French face, with strongly marked Gascon features; in him the two natures are blended.

The Gascon element formed the original groundwork of Montesquieu's character, and determined his disposition. He retained not only the Gascon accent, which he affected, but the ways, — the gasconade, in the good sense of the term, — making it a point of honor to be witty. His conversation was full of sallies, surprises, and irregular flights. His style retains much of this conversational manner; it is marked by rather abrupt transitions, multiplied digressions, outbursts of familiar eloquence, gleams of playfulness and raillery, — in a word, by the freedom of informal chat, — and, owing to an overcrowded memory and an excess of animation, by an abandonment to impulse sometimes bordering upon license.

Montesquieu was fond of Montaigne; he placed him among the great poets, he delighted in him, he fed upon him, and at intervals seems Montaigne himself alive again. He has, like him, an insatiable curiosity, and that thirst for knowledge which is the unchanging youth of the mind: "I pass my life in investigation; . . . everything arouses interest and wonder. I am like a child whose organs, still sensitive, are deeply affected by the most insignificant objects." Filled with a passion for reading, he travels about his library; there he makes his excursions, there

he follows the chase, there he seeks his booty; he scribbles his books full of notes. By thus scouring the woods his mind is constantly invigorated and fertilized. He is delighted with significant anecdotes, with traits characteristic of a man or of a country, or even with little stories serving only to amuse and merely illustrating the perennial folly or good-nature of man. These he collects and retains, and whenever the occasion is at all inviting he cannot resist the pleasure of relating them. Many odd sayings, strange assertions and quotations, surprising us even in the most serious chapters of "The Spirit of the Laws," proceed from no other source than this Gascon humor. Montesquieu cites, in connection with the laws "providing for political liberty in its constitutional relations," Arribas, King of Epirus, and the laws of the Molossians. What is the use of Arribas and the Molossians here? asks a critic. Their use is to show that the author has read Montaigne and is from the same country.

But he is, at the same time, French, intensely French, a serious and contemplative Frenchman. Montaigne scattered his thoughts; Montesquieu felt the need of connected thinking; he eagerly desired order, method, continuity. In all his cases he must have counsel,

testimony, chains of causes. The most wonderful collection of rarities is not enough for him. He was not contented with showing amateurs through his museum, and slyly enjoying their amazement at the variety of forms and the endless succession of contrasts. He wished to explain to himself and to others this marvellous diversity in Nature, to discover laws amid apparently conflicting facts, and to surprise by harmonizing instead of contrasting. "Man's mind is made for thought, that is, for perception; now, such a being must have curiosity; for as all things are linked together in a chain in which each idea has one before it and one after it, we cannot enjoy the sight of one thing without desiring to see another." This is the curiosity of the scholar and historian.

This curiosity implies an entire independence of judgment, and this Montesquieu always possessed. His mind is one of the most unprejudiced, one of the freest, imaginable. But if he never had the prejudices of superstition, he did have at one time those of unbelief. Under the influence of the reaction that took place in the days of his youth against the orthodoxy of the latter years of Louis XIV., he showed himself a freethinker, pushing freedom of thought to irreverence,

and independence of belief to hostility. He did not continue to entertain such views. His very contemplation of the order existing in Nature and in ideas tended to banish scepticism. His profound study of social institutions led him to have respect for religious beliefs. But, as Sainte-Beuve has remarked, in his very homage "to the elevation and idealization of human nature" he always remained eminently a politician and a historian. He understood and accepted the ideas of justice and religion from the practical and positive side rather than in their "virtual and essential selves." He had no aptitude for metaphysics. First causes seeming to him beyond our ken, he did not try to find them, and rested content with secondary causes, — those whose effects reach our senses and are objects of experience. His scrutiny was limited to this world, and did not extend beyond humanity. As to things that are beyond history and beyond this world, he relied upon his sense of life and consciousness. He rested, as a last resort, in those sublime commonplaces of human hope, which, even in their mystery, still seemed to him the most satisfactory solution that men had found to the problem of their destiny.

"What avails all this philosophizing? God is so high that we do not perceive even His

shadow. We know Him in fact only in His precepts." These precepts are written within us; and the social instinct develops them in proportion as it leads us to form the social state. "Even were there no God, we ought always to love justice; that is, endeavor to resemble the being of whom we have such a sublime conception, and who, if He existed, would be forever just. However free we might be from the yoke of religion, we ought not to be free from that of equity." "Even if the immortality of the soul were an error, I should be loath to disbelieve in it. I acknowledge that I am not so humble as the atheists. I do not know how they think of it, but for my part I am not willing to barter the idea of immortality for that of transient bliss. I am delighted with the thought that I am immortal as God himself. Independently of revelation, metaphysical arguments give me a very strong hope of eternal blessedness, and this hope I should not be willing to renounce."

Practically he almost closes with the wager of Pascal,[1] not out of agony of heart and despair of reason, but out of prudence, out of

[1] Pascal ("Thoughts," iii. 1) says, "Not to wager that God exists, is equivalent to wagering that He does not exist." See the remainder of the passage, and Voltaire's note upon it, in which he taxes Pascal with irreverence. — Tr.

contempt for the hypotheses of schoolmen and for dogmatic systems; above all, out of his conscientiousness as a law-giver, out of his good sense as a citizen, out of his perception of the needs of society, out of regard for human-kind. His natural inclination drew him toward the ancients, toward Marcus Aurelius and the Antonines, whom he calls "Nature's greatest work." "Born for society, they believed that their destiny was to labor for it." In all his works we find this spirit of Stoicism, improved by French urbanity and tempered with modern humane feeling.

I do not mean charity. Montesquieu, having never succeeded in quite understanding the part of Christianity in civilization, appears to have remained unaffected by this Christian sentiment. He was kind, and he showed himself generous. He said: "I have never seen any one's tears flow without being touched by them; I feel compassion for the wretched, as if they alone were men." But he dreaded to let it appear. He considered "that a noble action is one that shows kindness, and requires effort for its performance," and he pushed such effort to the point where it becomes affectation. His scorn of sham sensibility took the form of coldness. He carried so far his fear of appearing the dupe of his feelings, and

of seeming vain of his good deeds, as to deprive himself of gratitude.

Some stiffness and much bashfulness complicated this constraint. "Bashfulness has been the scourge of my life." He confesses that he suffered with it most of all before blockheads. We should imagine that he suffered with it sometimes in the presence of women. He was long their lover, and some of them loved him in return. As a lover he was passionless, imperturbable, unromantic, but sprightly and witty, more eager for amusement than for affection, more superficial in love than in study, but exhibiting here the same curiosity and much more self-indulgence. If he had passions, they disturbed him little; if he had disappointments, he was soon consoled; if he often yielded to impulse, he never gave himself completely up. "I was in my young days so fortunate as to form attachments for women who, I thought, loved me; as soon as I ceased to believe this, I promptly broke with them." There was in him something of the libertine. This must here be acknowledged, because a trace of it — at once the stamp and the stain of his time — remains in his works. We should not know Montesquieu if we did not see him, at least in passing and by stealth, as the

wit of the boudoir, the gay magistrate rivalling Judge Hénault and Judge De Brosses in stolen gallantries.

"The society of women," he has somewhere said, "depraves our morals and forms our taste." We could reverse the statement with regard to the women whom he knew. His moral sense was not blunted in their society, and his taste was depraved. It was to please them that he composed certain opuscules which disfigure his works, and that he sowed his finest chapters with licentious witticisms which spoil them. This is what induced the fashionable world of those days to read his books, and is what would probably repel the fashionable world of to-day. It is not that society is now less frivolous in its thoughts or more fastidious in its morality; but the fashion has changed, and fashion, in this matter and in this atmosphere, is the most intolerant of censors. Licentiousness, musk-scented and full of cant in Fontenelle, ironical and prudent in Montesquieu, degrading and cynical in Voltaire, lustful in Rousseau, loose and wanton in Diderot, became magniloquent with Chateaubriand, theatrical with the romantic school, pedantic, pathological, and dismal with the school that has followed. This school, with its gibberish from the hysterical hospital, is

far removed from the tone of sportive gallantry into which Montesquieu is fond of relaxing. Our recent literature reeks with a gross vapor that would have nauseated the contemporaries of Montesquieu; worse yet, it would have bored them, — and to do this was in those days the worst of offences.

This is an offence which Montesquieu never commits; for though he jests in these interludes, he does not keep always at it, and is too wise to confound the design of the vignette with the subject of the chapter. He trifles just as he lugs in curious learning, from versatility, and with the freakishness of Gascon humor; but the thinker soon brings back the truant to the high-road. The philosopher always has the last word.

He attached much importance to the dignity of his name. This liberal nobleman was very proud of his birth and of his descent from a race of conquerors. "Our ancestors, the Germans, warlike and free," is a thought which often recurs, under many forms, in his writings. This thought lurks in his heart, and is the expression of an inborn prejudice which he nurses, and which, far from criticising, he tries to confirm by his reading. He is wont to say complacently, "my domain," "my vassals." The dry subject of fiefs, which was

distasteful and baffling to his contemporaries, has for him all the personal attractiveness of genealogy.

But the feudal lord was combined in him with the magistrate; and if he had no liking for his duties, he did have a passionate sense of the prerogatives of his class. As he had a classical training, he carried into his demands for the feudal liberties a sort of haughty republican spirit derived directly from Rome. "I have had a distant view, in the books of Plutarch, of what great men were." From this intercourse with the ancients he acquired that impulse toward great actions, that fortitude of soul, that worship of the political virtues, the tradition of which was becoming extinct in the France of his day, and which he contributed in no small degree to restore. He hated the sneering spirit, and liked to admire heartily. He composed pen-portraits of great national characters, "of those rare men who would have been acknowledged by the Romans," of those of whom it could be said, as of Turenne, that their existence "was a hymn of praise to humanity." His noblest pages are portraits of the founders of empires.

He is before all, and above all, a citizen. "Is it not a noble aim to endeavor to leave men after us happier than we have been?" "I

naturally loved the well-being and the honor of my country. . . . I have always felt a secret joy when any law was made which conduced to the common welfare." He sought this common welfare; he would have delighted in laboring for it; it would have been his glory; and we can see that he once coveted this glory. The court disdained him. He was wounded by it. Bitter and abiding resentment betrayed itself in passages which, both in thought and expression, remind one of La Bruyère. "At first I had in most cases a puerile dread of the great; as soon as I had found them out, I began almost immediately to despise them. . . . I was wont to say to a man, Fie! fie! your sentiments are as low as those of a man of quality."

He must have suffered all the more from this rude rebuff at Versailles, because he was really modest. All pretension to superiority offended him. "Authors strut like the *dramatis personæ* of the stage." He had no conception of hatred, which seemed to him a painful thing: "Wherever I find envy, I take pleasure in badgering it." He threw off reserve only among intimates, "in houses where he could get along with his every-day wit." This wit was amazingly prompt, nimble, sparkling. His friends were charmed and dazzled

by it. His mere acquaintances, whom he treated with indifference, and who heard only the echo of his conversation, reproached him with being chary of his wit in their company. He was often content to keep his thoughts to himself, seeming to agree with bores in order not to have to hear them, or, worst of all, to contradict them. Thus escaping discussion, he went on making observations from his own high standpoint, and "composing his book in society," as was remarked, not without irritation, by a great lady in whose company he is said to have been too reflective.

Though the best of friends, — the most amiable and the most beloved, — he knew how to accommodate himself to retirement, and even sought it when his vocation as a thinker made him feel the need of it. He had a contented disposition, regular health, ability to think clearly with promptness and continuity, and the power to bury himself endlessly in his studies. "I have never had a vexation which an hour's reading has not dissipated. . . . If people only wanted to be happy it would be very easy; but they want to be happier than other people, and this is almost always difficult, because we imagine other people happier than they really are." He showed prudence, too much prudence indeed, in those matters

of the imagination and of the heart which admit so little of it. Kind and humane without being susceptible, he never pushed any attachment so far as to cloud his mind or break his heart. There is always the same groundwork of Stoicism concealed, and, as it were, sprinkled with the salt of Gascon levity. Plants springing from such soil are gorged with sap and produce wonderfully juicy fruit, but they develop no verdure and they give no shade.

Montesquieu would have been profound and brilliant indeed, but unattractive, had not the observer, the scholar, and the thinker, each been coupled in him with the artist. He not only has the political opinions of antiquity, he has its estimate of poetry. "These ancient times enchant me, and I am always ready to say with Pliny, 'It is to Athens that you are bound; revere its gods.'" He enjoys "that cheerful air diffused through all mythology." He calls "Télémaque" "the most exquisite work of this age." With the single exception of "Manon Lescaut," which he could not have read before mature years, and which he must have enjoyed, the novels of his time were so long-drawn-out, and so deficient in imagination and style, that they repelled him from imaginative literature; while the dull, cold, and mechanical versification of his contemporaries

repelled him from their poetry. He found his poetry only in Montaigne and in the ancients. Moreover, as he prides himself upon writing like a gentleman and not like a grammarian, he dashes down his thought, just as it occurs to him, in metaphors and sallies of wit; but he returns to it often, spending a long time on it. He revises, erases, corrects; he writes, in short, as an author who has a reason for his taste, and a definite style. "What usually characterizes a great thought is, that it states an idea that brings to mind a great many others, and enables us to discover at one stroke what we could only hope for after protracted reading."

Thus Montesquieu appears to us about 1720, in the maturity of his powers. A wonderful moderation of heart, of mind, and of character, reigned in him and offset some qualities by other very different ones which Nature very rarely combines in the same man. These qualities do not comprehend all of French genius, but they do comprehend all of French reason and wit. We have had sublimer philosophers, bolder thinkers, more eloquent writers, sadder, more pathetic, and more fertile creators of fictitious characters, and authors richer in the invention of images. We have had no more judicious observer of human societies,

no wiser counsellor regarding great public interests, no man who has united so acute a perception of individual passions with such profound penetration into political institutions, — no one, in short, who has employed such rare literary talent in the service of such perfect good-sense.

"My mind," said Montesquieu, "is a mould; the same set of portraits is always obtained from it." These portraits had their preparatory studies and sketches, and many originals have sat for the great historic figures making up Montesquieu's portrait-gallery. Let us take a look at the first models who presented themselves to him, and whom he proposed to depict. They are the men and the events of the Regency. No society has been more willing to display itself nakedly, none has challenged satire with more effrontery.

CHAPTER II

THE "PERSIAN LETTERS."

LOUIS XIV. had just departed. His declining years resembled a gloomy and majestic sunset. Contemporaries did not stop to admire the twilight of a great reign; they were glad to be set free. No one regretted the king; he had too strictly imposed on all Frenchmen "that dependence which subjected all." "The provinces," says Saint-Simon, "rallying from despair at their ruin and annihilation, breathed free and trembled for joy. The higher courts and the whole magisterial caste had been reduced to insignificance by edicts and appeals; now the former hoped to make a figure, the latter to be exempt from royal intermeddling. The people, ruined, crushed, and desperate, thanked Heaven with scandalous openness for a deliverance touching the reality of which their eagerness admitted no doubts." In the society in which Montesquieu lived, among the wits and free-thinkers, there was none who, like the common

people, thought of thanking Heaven. On the other hand, the so-called liberty which arose removed all checks from a freethinking tendency which passed beyond all bounds.

This freedom of thought had never disappeared. The tradition of it descended, "direct and uninterrupted," from the Renaissance to the Fronde, and from the Fronde to the Regency, through Retz, Saint-Évremond, Vendôme, Bayle,—the epicureans and the sceptics. "The reign of Louis XIV. is honeycombed by it." This prince and his councillors of state thought they did wonders by suppressing dissenters. Huguenots, Jansenists, all those who professed to believe according to their own consciences and the grace they received from Heaven, were persecuted, proscribed, annihilated. But infidelity remained, and, cherished in the depths of the heart, became the most fearful adversary that the Church had faced since the days of Leo X.; for it was quiet, self-possessed, imperturbable as the spirit of the age. Infidels carried into their denial the magisterial fulness and certainty of a Bossuet in his faith. "The great heresy of society," wrote Nicole, "is no longer Calvinism or Lutheranism; it is atheism."

The Reformation and Jansenism, both proceeding from the Christian spirit, had been

crushed; and thus the way was best opened for the spirit of the Renaissance, which was that of pagan antiquity. The king had revived Olympian morals, an example more efficacious than all the edicts in the world. The political creed derived by Bossuet from Holy Writ could not prevail over the moral code derived by Louis XIV. from mythology. The king, grown old, converted and devout, found no remedy for this except penitence; but however sincere his own penitence might be, he succeeded in forcing upon his subjects only hypocrisy. Dissoluteness went masked, or kept within doors.

The Regency freed it from every restraint. The display of vice succeeded the show of devotion; the rivals of Don Juan occupied on the front of the stage the place recently held by the rivals of Tartuffe. Everything was called in question, discussed, unsettled. The imposition of the bull *Unigenitus* upon the clergy passionately excited all believers; the intestinal broils of the Church opened a breach for freethinkers. Dubois debauched politics; Law, the finances of the state. There had been gambling-hells only for the nobility and gentry; henceforth the people have them. And yet no one suspected that this inundation of ideas and passions would wash

away the old foundations in France. The new reign inspired boundless hopes; all rash schemes became possible because none of them seemed formidable.

Thus thought Montesquieu, as he was hurried along by these movements of the age. A nobleman and a magistrate, sly and critical, but magnanimous withal, an ardent reformer, and one who confided in illusions, eager for fame, anxious to please, dreaming that he would enlighten his countrymen and shine in the world of fashion, smitten, moreover, "with that mania for writing books" which determined his calling, yet at the same time careful of his person, scrupulous about the proprieties of his rank, without love for scandal and still less for the rack, he sought a veil for his ideas so flexible and so discreet that his work might stimulate inquiring minds without offending the official wariness of the censors. He supposes that two Persians, one of whom, Rica, is the more lively and satirical, while Usbek, the other, is the more meditative and reflective, come to visit Europe. They exchange impressions, inform their Persian friends about the affairs of Europe, and are informed by them about those of Persia. The plot was not entirely new. It is of little consequence to know whether Montesquieu bor-

rowed it from Dufresny. Montesquieu was capable of inventing it; at all events, he has made it his own. His idea of Persia he got from Chardin. He was fond of reading this traveller's pleasant stories; he derived from them his theory of despotism and his theory of climates; they suggested the species of romance which he inserted in the "Persian Letters," and the personal details about his characters. This is the most questionable part of his book. It was then quite the fashion, but is now wholly out of date.

Montesquieu enjoyed the "Arabian Nights," and might have found in them all the elements necessary to form an agreeable imitation of the Oriental tale. He did not think of it. His romance recalls the younger Crébillon's writings, though it has less of licentious grace, and Hamilton's tales, though it has less of ease and of pleasing improbability. There is in these ticklish stories an effort at exact portrayal entirely uncalled for, and consequently offensive enough. If Montesquieu had confined himself to reproducing the details of Persian manners collected by Chardin, such details would pass, in case of need, for local color. But he did nothing of the kind. Montesquieu embellished the traveller's picture and arranged it to suit the fancy of the dissolute judge. Chardin

says somewhere, "Modesty forbids me even to recall what I have heard on such a subject." Montesquieu has imagined more than he has heard, and has described it without regard to propriety. All the paraphernalia of a harem more Gascon than Persian, and a system of polygamy more European than Oriental, are displayed in a travestied, tarnished, antiquated picture which vexes and chills us.

Montesquieu not only makes Chardin's picture licentious, he makes it tragical. His Persians have a gloomy and restless jealousy. "Wretched man that I am!" exclaims Usbek; "I long to see again my native land, perhaps only to become more wretched still. Alas! what should I do there? . . . entering my seraglio, I must demand an account of the trying time of my absence . . . what if punishments which I shall myself impose must be lasting tokens of my disgrace and of my despair?" He speaks with a sinister tone of those "fatal doors opening only for him." Those who guard them are not the "old slaves, odd and deformed," observed by Chardin; they are the grandiloquent victims of a fatal destiny. There is in them something resembling a posthumous Abailard and an anticipated Triboulet. These eunuchs, as it

appears, were very learned, and acted as tutors to Persians of quality. One of them must have come as far as Valais and have taken charge of the education of Saint-Preux.[1]

These are the weak points of the work; they partly explain its success. This fashion has gone out; ours, too, will go out. Let us fix our attention upon what is abiding. And first the style, which is wonderfully nervous, brief, suggestive, above all precise; it is, moreover, temperate, and of admirable propriety in its turns of phrase; it is livelier, easier, bolder in movement than that of Saint-Évremond; less strained and less elaborate than that of La Bruyère. Montesquieu does not seek ornaments and figures of rhetoric as he will later on, when he treats of drier subjects, since he thinks, and rightly thinks, that the variety of the thought is here enough for the amusement of the reader. Here the pure current of French wit flows over a bed rather stony, it is true; but what limpidity in its waters, what joy, what grace and light in its ripples and its little cascades! This is the stream which is to pass on to Voltaire and Beaumarchais; Stendhal and Merimée, in our time, are to

[1] The selfish, grandiloquent hero of Rousseau's "New Heloïsa." — Tr.

receive it and turn it toward us, but with a more restrained flow, over a drier and more tortuous bed.

Pictures of character and manners abound in the "Persian Letters." Montesquieu, who afterward shows such a sagacious knowledge of man in his social relations, shows in these letters the penetrating and ironical observation of the man of the world. Tradition will have it that in Usbek he portrayed himself. Usbek reasons much about affairs and pries much into causes; he preaches divorce, thinks highly of suicide, praises the Stoics; but he is very restless in love, very melancholy in his jealousy, and fiercely gloomy when satiated with pleasure. This could never be the true picture of a Gascon quite fancy-free, who formed attachments with sprightliness, broke them off without bitterness, and had no trouble that could hold out against a page of Plutarch or Montaigne. Rica resembles Montesquieu at least as much, but is in reality only the same person as Usbek in another guise. These two Persians are twin brothers. Usbek holds the pen when Montesquieu preaches morality to his contemporaries; Rica takes it when Montesquieu satirizes them. And how delicate his satire!

His gallery of fools is equal to the most

celebrated collections of the kind. Here is the great lord, "the man of all the kingdom who best maintains the dignity of his station, taking snuff so loftily, blowing his nose so remorselessly, spitting so unconcernedly, caressing his dog so odiously," that we cannot weary of admiring him. Here is the director of consciences, here the literary snob, more willing to endure a sound drubbing than the criticism of his works; here is the oracle furnishing the subject of one of the liveliest sketches in the work: —

"I happened the other day into a company where I saw a man very well satisfied with himself. In fifteen minutes he decided three questions in morals, four historical problems, and five points in physical science. I never saw so universal an oracle; his mind was never troubled by the slightest doubt. We left the sciences and spoke of the news of the day, — he was an oracle on the news of the day. I wished to catch him, and said to myself, 'I must take refuge in my stronghold and have recourse to my country.' I spoke to him of Persia; but scarcely had I spoken four words when he gave me twice the lie, relying on the authority of Messrs. Tavernier and Chardin. 'Ah! good Heavens,' said I to myself, 'what a man this is! Before long he will be better

acquainted with the streets of Ispahan than I am myself.' I soon made up my mind to keep silence and let him talk; and he still plays the oracle."

Montesquieu's Persians are severe upon women; I mean upon such as Montesquieu associated with in the society where he amused himself, and whose weaknesses he had perhaps himself observed. He accuses them of devoting themselves to gaming in order to "facilitate a dearer passion" while they are still young, and to supply the loss of this passion when they feel themselves growing old. He was to say later on, and more bluntly, "Every man makes use of their charms and of their passions to advance his fortunes." He is implacable toward men who arrive at prominence by this road. He withers with his scorn those bullies of the closet, the prototypes of Lovelace and Valmont, who openly run a depraved career and insolently boast of their profligacy: "What do you think of a country where such people are tolerated, and where a man who plies such a trade is allowed to live; where infidelity, treachery, abduction, perfidy, and injustice lead to consideration?" The man now speaking is no longer the frivolous worldling; he is the noble and the magistrate, and his language reminds us of the speech of Don

Louis to Don Juan, and the majestic remonstrance of the father of the "Menteur."[1]

It is this same spirit, much more nearly allied to Saint-Simon than to Voltaire, which is caught sight of in his continual satire of the king, the court, and the great. Montesquieu denounces Louis XIV., whom he saw in his decrepitude, when, infatuated with his own reign and flattered by his officials, he coveted the simplicity of the Grand Turk's government. He allows to Louis only the outward form of justice, public policy, and devotion, — only the semblance of a great king. Unjust to the master, he is not less so to his servants. I find in La Bruyère himself no more severe touch than the following: "The class of lackeys is more respectable in France than anywhere else; it is a nursery for great lords; from it the gaps in the other classes are filled. The men composing it take the place of the unfortunate great, of ruined magistrates, of noblemen killed in furious wars; and when the lackeys cannot fill the void themselves, they exalt all the great houses by means of their daughters, who are, as it were, a kind of fertilizer for the barren uplands."

[1] "Le Menteur" (The Liar), Corneille's famous comedy. Don Louis is the father of Don Juan in Molière's tragi-comedy "Don Juan." The speech referred to is in the fourth scene of Act iv. — Tr.

Montesquieu shows us the monarch a despot, his ministers without a system, his government precarious, his high courts in desuetude, family ties relaxed, the ruin of the higher orders, the jealousy of the privileged classes, — all the signs, in fact, of the approaching dissolution of the social system. What a contrast between Versailles, where "all is little," and Paris, where "all is great;" where reign "liberty and equality," the "eagerness for labor," economy; where "the passion for growing rich is passed along from rank to rank, from the artisans to the great"! This rivalry cannot arise without a substratum of envy; nevertheless, it is one of the causes of the fermenting activity of the nation. "Even to the lowest day-laborers they dispute about the excellence of the calling they have chosen; each one exalts himself above him who is of a different occupation, in proportion to the conception that he has formed of the superiority of his own calling." And this Paris is only the mirror of the nation. Nothing is seen in France but "labor and industry." "Where, then," writes Usbek to his friend, "is this effeminate race of whom you talk so much?"

These are Frenchmen, at once eager for wealth and passionately fond of equality. Montesquieu did not perceive in them the

elements of a democracy which was forming under the shadow of the throne, destined to develop a totally different character from that of the ancient democracies. French of the French, he will always remain content with the Roman liberty and the political virtue of Lycurgus. By effective contrasts and by satirical illustrations he opposed the republic to the monarchy; but his was the ancient republic; he dreamed of no other. As soon as he touches upon this great subject he is lost in revery, and we see forming the strange ties which connect this reformer of the old régime with the apostles of the Revolution. "Monarchy," says Usbek, "is an abnormal condition which always degenerates into despotism. . . . The sanctuary of honor, reputation, and virtue, seems to be established in republics and in countries where each can say *my country.*"

"I have often heard you say," wrote one of his friends to Usbek, "that men were born to be virtuous, and that justice is a quality which is as much their own as existence. Explain to me, I pray you, what you mean." Montesquieu did not explain it very clearly. This question of the origin and basis of right always embarrassed him, and made him wandering and obscure. For lack of a better way he gets

out of it by a fable, the story of the Troglodytes proving that "happiness can only be secured by the practice of virtue." He constructs a Salentum, but one very different from that of Fénelon, which was the ideal future government of the Duke of Burgundy under the ministry of Beauvilliers. Montesquieu's Troglodytes are the precursors of Mably's city and Rousseau's republic.

Satirical and paradoxical in politics, Montesquieu, in his "Persian Letters," is wholly a freethinker in religion. He was young, confident of his reason, confident of health, confident of life. He is cutting and keen as steel, pitiless toward worldly compromises and eleventh-hour conversions. He has a light touch which seems to graze the skin and yet cuts without mercy. All the germs of Voltaire's polemics appear in the letters on the changes in the universe and the proofs of Islamism, but it is Voltaire at his strongest and tersest. Montesquieu speaks of the Church with irony, of theologians with scorn, of monks with contempt. Even missionaries find no quarter: "It is a fine scheme to send two capuchins to breathe the air of Casbin!"

Montesquieu did not think it good, either for the state or for society, that new religions be propagated; but wherever different ones

exist they ought to be constrained to live in peace. This indirect and imperfect toleration is very far removed from liberty of conscience; yet contemporaries would have been very well suited with it. Great merit was shown in proposing it, and great courage in sustaining it openly. Montesquieu makes an eloquent demand for it. His letters on the *autos-da-fé*, his views on the persecution of the Jews, his allusion to the revocation of the Edict of Nantes, are among the pages which do him the highest honor. They announce the author of "The Spirit of the Laws."

The author reveals himself by more and more marked indications as the correspondence between the two Persians goes on. Romance, conventionality, Oriental trumpery, the tinsel of the opening pages, gradually disappear from his work. The side-lights of the historian, the generalizations of the moralist, replace the detached observations and disparaging touches of satire. Here we detect Montesquieu in the act of making reflections in the course of his reading. It would seem that the latter part of the "Persian Letters" gives us the best and completest idea of the notes he took, part of which are said to be preserved at La Brède. In these letters Montesquieu developed whatever came into his

head, just as it occurred to him. He touches in a sidelong and passing way on most of the problems which he will soon wish to probe more deeply, and which he will endeavor to reduce to system. His ideas on international law and on conquest, on the advancement of science, on the classification of governments, on the feudal and Teutonic sources of liberty, are here and there caught sight of; and sometimes they disclose themselves with a real grandeur through the thin veil of these letters. His opinions with regard to the dissolution of the Turkish Empire and the declining power of Spain, which he discerned with so keen a glance, have often been cited. I cannot help extracting from his letter on the Spaniards a few lines plainly marked by the qualities which made Stendhal an admirer of the "Persian Letters." The emulators of Montesquieu in our day have certainly not surpassed him in this large and incisive manner of handling the graver: —

"There never was in the seraglio of the Grand Turk a sultaness so proud of her beauty as the oldest and ugliest Spanish rascal who sits with folded arms at his door in a Mexican town is of the olive whiteness of his complexion. A man of such consequence, a creature so perfect, would not work for all the treasures

of the world, and could never make up his mind to compromise the honor and dignity of his skin by vile and mechanical industry. . . . But although these invincible enemies of work make a show of philosophical tranquillity, there is none of it in their hearts, for they are always in love. They are the first men in the world to die of languishing beneath their mistresses' windows; and no Spaniard without a cold in his head could pass for a lover. They are bigoted in the first place, and in the second place, jealous. . . . They say that the sun never sets in their territory; but it must be added that he beholds in his course only deserted fields and desolate regions."

I shall mention one more feature, the essential feature of the book and of the whole man; namely, perfect temperance in his judgment, and prudence in his desires. In Montesquieu, the legislator's cautiousness constantly tempers severity of opinion and Utopian enthusiasm. Such a spirit dictates to Usbek that famous doctrine, — "It is sometimes necessary to change certain laws, but this rarely happens; and when it does, they must be touched with a timid and a reverent hand." It is in the same spirit that he announces and sums up the work of the future: "I have often sought to discover what government is most conformable

to reason. That government seems to me the most perfect which attains its object at the least expense, and which therefore governs men in the way best suited to their disposition and to their inclination." Thus we have all the public policy of "The Spirit of the Laws" in the "Persian Letters." In the following we find its philosophical doctrine: "Nature always works slowly, and, as it were, with thrift; its operations are never violent; even in its productions it exhibits moderation; it never carries on its processes except by rule and measure; if it is hurried it soon languishes."

CHAPTER III.

SOCIETY. — "THE TEMPLE OF GNIDOS." — THE ACADEMY. — TRAVELS.

THE "Persian Letters" could only appear anonymously, under the imprint of a foreign publisher. The censorship put up with such subterfuges, which deceived nobody. Printed at Rouen, like their illustrious forerunner the "Provincial Letters," the "Persian Letters" received the imprint of an Amsterdam publisher. Montesquieu practised, and inspired in those about him, the toleration he preached. He had as secretary the Abbé Duval, who did not lack intelligence, and for a friend the Oratorian, Father Desmolets, in whom there was nothing of the inquisitor. The Abbé Duval corrected the proofs of his book; Father Desmolets sought to dissuade him from publishing it; but as this Father was an intelligent man and a good prophet, he added, "It will sell like bread." And so it did. The "Persian Letters" presented, under a form flattering to all the tastes of the time, thoughts

which corresponded to the inclinations of all contemporaries. The work appeared in 1721. Four authorized editions and four pirated ones were published within a year.

Such success could not fail to provoke censure and awaken jealousies. The name of the author forthwith became known. Society, while amused by the book, cherished a grudge because one of its own members had composed it. It was the business of a lampooner, and not of a chief-justice, to censure in this way their government, their morals, and their religion. Men of letters write such pamphlets, men of the world are amused by them, courtiers condemn them, the author goes to prison, and the reader rubs his hands. D'Argenson said, "These are reflections of a kind which a witty man can easily make, but which a prudent man ought never to allow to be printed." "A man must be sparing of his wit on such subjects," wrote Marivaux in his "French Spectator." Envy outdid criticism. "When I had in some degree gained the esteem of the public," Montesquieu reports, "that of the official classes was lost, and I met with a thousand slights." People thought he had too much wit, and they made him feel it, not by treating him as a satirist, but as an infidel, and almost as a traitor. He suffered from this to such

a degree that he refused to publicly acknowledge this work, which was his glory. "I have a mania for writing books," said he, "and for being ashamed of them when they are written."

This was the bitter after-taste of success; he enjoyed, too, all its gratifications, and they were adapted to console him. He came to Paris; he was thirty-three, and, as he took care to say, he was still a lover; he mingled with that gay and lettered society, the delight of his age and its abiding ornament. He knew Maurepas, the Count de Caylus, the Chevalier d'Aydies whom he esteemed so much, and for whom he seems to have written this sentiment: "I am enamoured of friendship." He frequented the houses of Madame de Tencin, Madame de Lambert, Madame du Deffand. He had entry at Chantilly, the palace of the Duke of Bourbon, and met there Madame de Prie, who dispensed the honors both of this prince's hospitality and of his government. Montesquieu managed to win the good graces of this favorite. He would have liked, they say, to receive more special favor at the hands of the Duke's sister, Marie-Anne of Bourbon, Mademoiselle de Clermont. Her age was twenty-seven, and she had beauty, brilliancy, and, above all, sprightliness. Nattier has

painted her as a naiad with rosy cheeks and winning grace. Tradition will have it that Montesquieu was dazzled by her charms, and that to pay court to her he composed "The Temple of Gnidos."

This is a little prose poem which he supposes to be translated from the Greek. "It is only well-frizzled and well-powdered heads," says he, "that know all the merit of 'The Temple of Gnidos.'" Thus he allows its artificial and antiquated character; he classes it among the baubles which the frivolity of his age has bequeathed to the curiosity of ours. Of this bouquet of voluptuous fragrance which was to enrapture Chantilly, scarcely more remains than a very faint aroma as from a dry scent-bag in a rococo cabinet. Léonard and Colardeau have versified these quintessential madrigals, and their amorous rhetoric is, in its kind, more pleasing than that of Montesquieu. This is not said in praise of their work.

Yet even this failure indicates Montesquieu's superiority. He is too terse, too exact, too rich in ideas, for such allegorical trifling. He only reveals himself at intervals, when, forgetful of his fair curled and powdered readers, and taking his imitation seriously, he really translates in his beautiful prose some fragment of antique poetry which sings in his memory

and inspires him. His great familiarity with the ancients, his wonderful insight into their genius for politics, reveal to him by snatches their poetry and freshness. This artless note was then unique; neither Léonard nor Colardeau heard it; their shrill harpsichord could never have rendered a tone so clear and full. Nearly a century must pass ere this note, restoring youth and freshness to literature, should find its echo.

"There are times when she kisses me and says, 'You are sad.' 'True,' I reply, 'but the sadness of lovers is sweet; I know not why my tears flow, for you love me; I have no cause to mourn, and yet I lament. Do not arouse me from my weakness; let me sigh away at once my sorrows and my joys. In love's exaltation my soul, invited to a feast it cannot taste, is unrestful; while now I find savor even in sadness. Bid me not dry my tears; what matter though I weep, since I am happy?'"[1]

[1] Since this passage is cited wholly for its style, it seems best to give the original: "Quelquefois elle me dit en m'embrassant: Tu es triste. — Il est vrai, lui dis-je: mais la tristesse des amants est délicieuse; je sens couler mes larmes, et je ne sais pourquoi, car tu m'aimes; je n'ai point de sujet de me plaindre, et je me plains. Ne me retire point de la langueur où je suis; laisse-moi soupirer en même temps mes peines et mes plaisirs. Dans les transports de

Might this not pass for the prose argument of an elegy by André Chénier? The bacchanal of Canto VI. makes us think of the unfinished draughts of eclogues by the author of " The Beggar." Chénier drew his inspiration from the same sources. He was a great reader of Montesquieu, as may be seen from his prose. It seems to me that the point of agreement between the greatest prose-writer of the century and its greatest poet is here detected. Montesquieu, though not able to " sigh forth a verse full of love and of tears," had at least been touched by a ray of light from Greece. His was a mind that outran its age; this most marked of his characteristics is displayed even here. In this little work he is merely trifling, yet we perceive the flash of his genius. We perceive also the jargon and the display of theatrical frippery, which awkward imitators assume to be the style and the garb of antiquity, — " a joy and innocence " somewhat unexpected among the nymphs of Venus; " a patriotic heart " figuring more oddly still; and the " daughters of proud Lacedæmon," sketched rather roguishly as by

l'amour, mon âme est trop agitée; elle est entrainée vers son bonheur sans en jouir; au lieu qu'à présent je goûte ma tristesse même. N'essuie point mes larmes: qu'importe que je pleure, puisque je suis heureux?" — Tr.

some satirical artist after leaving a Directory reception.

"The Temple of Gnidos" appeared at Paris in 1725, with the royal license to print. Montesquieu took good care not to sign it. He had every reason to congratulate himself for his discretion; indeed, the Abbé de Voisenon intimates that his *pasticcio* brought him many favors which were conditioned upon his concealment of them. He made bold to present himself to the French Academy, although he had but lately made game of that illustrious assembly. He belonged to the society whence it recruited its members, and he was elected; but as he passed for the author of the "Persian Letters," the king refused his consent to the Academy's choice on the pretext that Montesquieu was not a resident of Paris. Montesquieu went back to Bordeaux and took pains to make himself eligible. In 1725 he read to the local Academy of Bordeaux fragments of a stoical treatise on "Duties," and his "Reflections on Distinction and Reputation." He delivered an "Address on the Motives that Should Encourage us in the Pursuit of Knowledge," which is full of fine touches of humanity. This done, he sold his office as chief-justice and came to establish himself at Paris. At this time he was beginning to sketch in his

mind the design of "The Spirit of the Laws." His installation came before his masterpiece.

In 1727 he presented himself to the Academy a second time. Cardinal Fleury had still half a mind to keep him out; but Montesquieu and his friends succeeded in quieting the ministerial scruples. He was elected on the 5th of January, 1728, and admitted on the 24th of the same month. It could not be said of his address, as of some others, that it was a sufficient title to membership. There is nothing in it to praise except its conciseness, and a beautiful sentence on peace and on the blood of men, "that blood ever dyeing the earth afresh." Out of politeness, and to conform to custom, Montesquieu extolled Richelieu, whom he detested, and Louis XIV., whose character he had torn to pieces. Mallet, who gave the address of welcome, challenged him to justify his election by speedily making his works public. He added somewhat maliciously, "The public will anticipate you unless you forestall it. The genius which it perceives in you will induce it to attribute to you anonymous works, in which it finds imagination, sprightliness, bold satire; and to do honor to your wit, it will assign them to you in spite of the precautions which your prudence may suggest." Mallet himself, when, in 1715, he took

the place of the Chevalier de Tourreil, had only composed a single ode. Of this lonely ode posterity would probably have known nothing if chance had not afforded to its barren author an opportunity to taunt Montesquieu with the insufficiency of his title.

Montesquieu was weak enough to take offence at this. He seldom appeared at the Academy; it is hinted that he did not feel at his ease there; he did not meet with such a welcome as he could have desired. He wished to travel in order to study for himself the institutions and customs of nations. He set out to make the tour of Europe. He began with Germany and Austria, in the company of an English diplomatist, the Earl of Waldegrave, nephew of Marshal Berwick. Montesquieu had formed the acquaintance of this Marshal Berwick at Bordeaux, and admired him much.

Montesquieu was heartily welcomed at Vienna, where he met Prince Eugene. The agreeable and easy manners, the pleasure of observing, the brilliancy of court life, and the prestige of great public business, fascinated him for a time, and he desired the privilege of entering upon an embassy. The ministry at Versailles did not think him worthy of it, and thus showed itself hard to please; but we ought not to regret it. Montesquieu would

have wasted his fine genius in the ruthless game of politics in which humanity is always the dummy. The world would have lost "The Spirit of the Laws," and it is not certain that France would have gained a diplomatist.

Montesquieu had the characteristics of the political observer, but these form only the bare canvas on which the statesman embroiders his tapestry. He lacked the incessant activity, the attention to externals, the pride of power, the selfish national spirit, without which no negotiator — and of course no minister — can succeed. He had too much human sympathy for this harsh trade of harrowing nations. "When I travelled in foreign countries," he says, "I became attached to them as if they were my own. I took an interest in their welfare, and was pleased when I saw them in a flourishing condition." This is the law-giver's spirit, — not that of the politicians of the time, who from their high towers kept a lookout for passing foreigners for the sole purpose of drawing them into ambush and extorting heavy ransoms.

"If I knew of anything," he said again, "advantageous to my family but not to my country, I should try to forget it. If I knew of anything advantageous to my country which was prejudicial to Europe and to the human

race, I should look upon it as a crime." This is quite opposed to Macchiavelli, and it is also opposed to diplomacy as then understood, and as it has been almost universally understood since then. One who held such opinions was not suited to the trade in human beings which his contemporaries practised; he would have made a sorry antagonist to a gamester like Frederic. The fact is that as he passed through Germany, while considering its weaknesses he only thought of how to cure them, desiring that country to reform its constitution, to gather strength, and to form a vigorous confederation. All this would have been the undoing of the treaty of Westphalia and of the French policy. The clerks in the foreign office would have shown little taste for these dreams, and would have sent Montesquieu back to his "Temple of Gnidos." Let us agree that this career was not suited to him; it would have offered him too many inducements to become a dupe at the expense of his country, and too few chances to employ his talents in her service.

He visited Hungary, where he could study feudalism and serfdom; he beheld from a distance over the frontier the republic of Poland, and inquired into the causes of the anarchy which was bringing it to ruin; then he

went over to Italy. Venice was like a merry inn for the rest of Europe, and the place of refuge for fallen greatness. Montesquieu did not fail to find amusement here. Here he met Law, who was teaching political economy backward; Bonneval, who was preparing to put into practice in their simplicity the precepts of the "Persian Letters;" and Lord Chesterfield, who formed a close friendship with our French traveller. He observed the aristocracy, the Council of Ten, the Venetian police, and the government inquisitors. He watched them quite persistently; he thought that they watched him in turn with the same care; at this he took umbrage, suddenly left Venice, and threw his notes into the sea. Italy enchanted him; it opened his eyes to the fine arts. He prided himself upon being an eclectic in regard to friendship. He was known to associate, at one and the same time, and in the same cordial way, with the French ambassador, Cardinal Polignac, author of the "Anti-Lucretius," with the Calvinist pastor, Jacob Vernet, and with several Italian Monsignors. He enjoyed their society, being very intimate for some time with a Piedmontese abbé, Count Guasco, who did not pose precisely as a grave doctor, but who was justly reputed to be the gayest and most gentlemanly of churchmen.

Montesquieu completed the year 1728 in Italy; he employed the early months of 1729 in travelling through Switzerland, the Rhinelands, and Holland, where he met Lord Chesterfield again. This lord took him to England, and there Montesquieu remained from October, 1729, to August, 1731. He frequented Parliament, and learned to read the political writings of Locke. Thus he discovered free government, and conceived the design of revealing it to Europe. It would seem that up to this time hardly any one except a few French refugees had dreamed of this new world in politics. In 1717, and again in 1724, Rapin de Thoyras had published a very clever description of it. Montesquieu became acquainted with this book, and profited by it so well that he made posterity forget it. Nothing escaped his scholarly scrutiny; he had a keen eye for details, while in the search for causes and the pursuit of conclusions his vision was wide and sweeping. His memoranda, hastily jotted down, are such masterpieces of exactness, brevity, and perspective as we should expect from the La Rochefoucauld of politics.

This sentence is ascribed to Montesquieu as summing up his travels: "Germany is the land to travel through; Italy the land to sojourn in; England the land to think in;

France the land to live in." He came back to La Brède after more than three years' absence; he rejoined his family, busied himself about his affairs, cultivated his vines, had his genealogy prepared, and transformed his park into an English garden. Henceforth his chief occupation was the composition of the book which he had carried in his head throughout Europe. It was only in his provincial quiet and leisure that he found himself able to complete it. He wished to write the social history of mankind, the history of man in his political and legal relations. He had sketched many fragments of it: an "Essay on the Finances of Spain," "Reflections on the Universal Monarchy in Europe," a "History of Louis XI." From what has remained of this last work, we can say of it as Montesquieu said of Michael Angelo, — "Even in his sketches, as in the verses left unfinished by Vergil, there is an element of greatness."

He was filled with the spirit of Rome. "The ruins of so tremendous a fabric" did not impress his imagination by their picturesque appearance or their sepulchral character as they did that of Montaigne. Under these scattered fragments Montesquieu had caught a glimpse of the city, and from all these pieces of skeleton he reconstructed in thought this extinct

mammoth. More as historian than painter, and more as philosopher than narrator, he sought the secret of the life and death of this powerful organism. Probably he planned to make this merely a part of his work on the laws. It was to form the main episode because it was his principal proof. But as the episode threatened to overrun the book, he detached it, and then polished and chiselled it as his favorite work. He enjoyed writing. He had chosen the noblest subject in the world, and he set himself the task, according to the saying of Florus, of including "in a miniature likeness the entire image of the Roman people." Accordingly in 1734 appeared his "Considerations on the Causes of the Greatness and Decline of the Romans;" and some years later, in 1745, the "Dialogue of Sulla and Eucrates." This dialogue forms an admirable appendix to the "Considerations," and cannot be treated separately.

CHAPTER IV.

"CONSIDERATIONS ON THE CAUSES OF THE GREATNESS AND DECLINE OF THE ROMANS." —"DIALOGUE OF SULLA AND EUCRATES."

WHAT attracted and held Montesquieu's attention to Rome was his pursuit of the most complete political phenomenon that history presents for our observation. Several phenomena of this kind, thus observed, would furnish a key to all the rest. Politics has its laws, which experience develops and history ascertains. History is a science only in so far as it collects, classifies, and connects phenomena, and points out the connecting links. "As men have at all times had the same passions," wrote Montesquieu, "the occasions giving rise to great changes have been different, but their causes always the same." The investigation of these causes in Roman history is the chief aim of his book.

He had had illustrious predecessors in his study of Rome. Polybius, whom he had thoroughly analyzed, Tacitus, by whom he was so

inspired as sometimes to equal him, had each shown sequence and consequence in Roman affairs; but the idea of a higher general law had not entered their minds. Macchiavelli, in his "Treatise on Titus Livius," advanced no farther. He is wholly empirical, and is not so much occupied with grouping events together as with deducing their lesson. "Chance," said Macchiavelli, "does not so govern the world that foresight has no share in what takes place." To increase this share by dint of skilfully forecasting the future, and to learn this art in the school of the ancients, was the aim he proposed to himself. Causes matter little to Macchiavelli, institutions hardly occupy him at all, the difference in the times does not impress him; he analyzes the facts and draws from them rules for managing men. History to him is only that great "political dispensary" of which Mirabeau was wont to talk after devoting too much study to "The Prince."

Macchiavelli was a politician, and had plunged into revolutions; Saint-Évremond had hardly more than passed them in the spirit of curiosity and adventure. In his "Reflections on the Several Talents of the Roman People," he deals principally with men and their characters. The bond of connection escapes him. Bossuet at once discovers this bond of con-

nection. By reason of its continuity, its consistency, its constant and regular course, Roman history was a subject well suited to the majestic logic of Bossuet's genius. No one has equalled him in his exposition of Rome's greatness. The wealth of his language is in harmony with the magnitude of his subject. Men and their passions are not forgotten; but Bossuet leaves to them only the details of events, the variable and transitory externals of history. He wishes his reader to grasp "the thread connecting all events." This thread he really makes visible, as it runs through the course of human affairs; but the men who twist and wind it do not guide it. Bossuet traces it to the hand of God himself, from whom it comes, and to whom it returns. Whatever influence Bossuet attributes to "the individual genius of those who have caused great movements," and however constantly the historian in his nature gets the better of the theologian, it is the theologian who has the first and last word. He remains always the very humble subject and adorer of that Providence to whom, as has been wittily said, he boasts of being privy councillor. God planned, he declares, "that the course of human events should be connected and duly proportioned." But this same connection and

proportion has for its only object the triumph of the Church. Witness "the secret decrees of God concerning the Roman Empire, — that mystery which the Holy Spirit revealed to Saint John, and which that great man, apostle, evangelist, and prophet set forth in the Apocalypse." The "Discourse on Universal History" is, in fine, a pious and solemn application to history of the doctrine of final causes.

Montesquieu made no pretence to theology, and paid no attention to final causes. Like Bossuet he allows a very large share to men's free choice, and to the activity of individuals in carrying out their designs; like Bossuet he recognizes that things go in politics "as in gaming, where the cleverest player is, in the long run, the winner;" but he conceives that the game has its rules, a table at which it is played, circles which engage in it; even cleverness can only be exercised under given conditions, and none of these things is the result of chance. The entanglement of causes and effects provides history with a plot; the reciprocal relations and attractions connecting men and ideas, and the general trend of events, determine its working out. "It is not chance that rules the world," says Montesquieu; "witness the Romans, who had a constant succession of triumphs while they managed

their government on a certain plan, and an uninterrupted series of reverses when it was conducted upon another. There are general causes, either moral or physical, at work in every monarchy, exalting, maintaining, or overthrowing it. All accidents are subordinate to these causes, and if the chance of a battle, that is to say a special cause, has ruined a state, there was a general cause which made it possible for the state to perish by a single battle; in a word, the general tendency controls every particular accident."

It is owing to this wholly scientific conception that Montesquieu is reckoned among the great masters of modern history. The perfection of his style has made him one of our literary classics. Nowhere has he been more entirely himself — more thoroughly Latin and more unaffectedly French — than in his "Considerations on the Greatness and Decline of the Romans." Critics have praised the lively and vigorous style of this book, the firmness and grandeur of its movement, the breadth of its treatment, the brief and grand imagery used in exposition, that conciseness which recalls Sallust and Tacitus, that art of "steeping words in their primitive dyes and restoring to them all their pristine color," of eliciting their full meaning by dashing them into the

phrase in their original figurative sense, of doubling the effect by the unexpected application to a great subject of a simple and popular expression, dimmed and worn by use and tarnished by time. "Nothing served Rome better than the respect that she imposed upon the world. She at once stopped the mouths and stupefied the minds of kings."[1] Passages like this could be cited from every page of the "Considerations."

Montesquieu's judgments as a whole, like his style, and like his historical method, have proved correct. If one were to frame a running commentary to the "Considerations," and so put the book abreast of modern research, the notes would swamp the text. The same would hold true of Cuvier's "Epochs of Nature," if the attempt had been made to keep the work abreast of the progress of science from Cuvier to Darwin. But why undertake such a thing? The recent histories of Rome will be read, but they will never be understood so well as after reading Montesquieu; and Montesquieu will never be understood so

[1] It is difficult, in matters of style, to make a translated illustration illustrate. Montesquieu's words are: "Rien ne servit mieux Rome que le respect qu'elle imprima à la terre. Elle mit d'abord les rois dans le silence, et les rendit comme stupides." — TR.

well as after reading the recent histories. We might compare his book to an ancient temple whose sill has half crumbled away: the partition walls have fallen in, and the interior is open to all the winds; but the marble columns surrounding it yet stand, the capitals have not suffered, the pediment remains, the frieze is intact, and, beheld at a proper distance, the edifice preserves all the noble outlines of its architecture. If you should attempt its restoration to correspond with the models and the fragments of the museums, you might make the structure totter, but you could in no wise enhance its beauty.

Montesquieu cared not for the criticism of antiquaries. He was ignorant of archæology, which made possible the reconstruction, stone by stone, of what fable had perverted and criticism annihilated. Livy's stories about the early days of Rome he took literally. Strangely enough, the man who was to speculate and discourse so complacently about climates, appears not to have concerned himself about that of Rome, any more than about the character of the men who founded the city. Michelet, and after him Duruy and Mommsen, utilized the soil and race as aids to their reflections. M. Fustel de Coulanges has shown the intimate relation existing between the

history of the city and that of its religion. Hardly any of these things were perceived in Montesquieu's time, and he had no taste for examining them more closely than his contemporaries. The social questions, and what may be called Rome's political economy in the earliest period of the republic, also escaped his notice. As he had not observed any revolutions of this sort, he lacked the essential factor for inductive reasoning. All that the history of England — especially that of Cromwell's England — taught him, he made good use of. But even in England the side which was fanatical and revolutionary, in the modern sense of the word, did not impress him. He never dwells on anything but political crises. These furnish him with remarkable reflective passages. For example, this: "No state is so apt to threaten others with conquest as one in the throes of civil war. . . . Never was England so much feared as under Cromwell."

Montesquieu does not show his real grasp of the subject until he reaches Chapter V., where he gives a masterly picture of the world at the period of its conquest by Rome. In the following chapter he investigates the methods of this conquest. These are the classic pages of the book. In this analysis of the Roman genius and of the causes of Rome's greatness,

he notes the attachment of each citizen for his city, the love of all the citizens for their country, their constant practice of war, their discipline, the way in which their constitution concentrated the power in time of war and allowed every abuse of this power to be corrected in time of peace, the logical sequence and due proportions of their designs, the talent of the Romans for dividing their enemies, their readiness to adopt all the useful inventions of other races, their skill elsewhere unknown in ancient times in blending with themselves subjected nations and making the most of conquered countries, their amazing fortitude in defeat, the firmness of their senate, that fortunate concurrence of circumstances, that "general tendency" which turned everything to their advantage, — even their mistakes, because they were able to understand them and repair them, — the continuous application of these two maxims to which all else was subordinated, "Maintain the general welfare at home, extend our conquests abroad," — in a word, everywhere and always the public interest. As Montesquieu finely says, "It is upon this stage that one should witness the drama of human affairs;" and no one has presented this drama more nobly than Montesquieu.

Admirable though it is, perhaps he admires

too much that terrible play of stern and deliberate force, those political virtues "which were destined to be so fatal to the world." The philosopher is too much eclipsed by the observer. Montesquieu will soon disclose in his "Spirit of the Laws" the supreme and decisive sanction of this conquest; here he describes its phenomena and notices its implacable and barbarous character: "As they never made peace in good faith, and as, owing to their purpose of encroaching on all, their treaties were properly only temporary suspensions of war, they inserted conditions which always began the ruin of the government accepting them. . . . Sometimes they negotiated with a prince for peace on reasonable terms, and when he had carried them out, they added such conditions that he was forced to begin the war anew. . . . Rome constantly grew richer, and each war put her in condition to undertake another. The Romans became masters of Africa, Asia, Greece, and scarcely kept a city for themselves. Seemingly they conquered only to give away; but they retained such a thorough mastery, that when they made war on some prince they crushed him, as it were, by the weight of the whole world."

Montesquieu, not content with analyzing the

genius of Rome, displays it in action. He felt, as he studied the Romans, their deep and concentrated passions; and unable to resist his desire to depict them, he composed the "Dialogue between Sulla and Eucrates." The endeavor has been made to discover here a settled determination to defend, by paradox and irony, the policy of aggrandizement and audacity in crime. It is more just to see in it simply a flash of genius from a great historian who for the nonce becomes a poet and brings his characters upon the stage. Montesquieu represents them according to his taste and the spirit of his age. Mommsen, if inspiration had thus impelled him, would doubtless have sought in a similar case to compose something Shakspearian. Mommsen's Sulla is a sort of romantic hero of fiery temper, with a fair complexion coloring at the slightest emotion, piercing blue eyes, and fine features; a generous, ironical, witty man, oscillating between a passionate frenzy for action and intervals of calm. Montesquieu's Sulla is a Frenchman, one of the classic age; brought up on Macchiavelli, he speaks like the terrible adventurers who served as originals for Molière's Don Juan: —

"Eucrates, if I am no longer a spectacle to the world, it is not my fault, but that of the

necessary limits of human affairs. . . . I was not framed to govern peaceably a nation of slaves. I love to carry off victories, to found or destroy states. . . . I have never pretended to be either the slave or the idolater of the society of my fellows; and this love so much extolled is too vulgar a passion to be compatible with my loftiness of soul. I have been guided only by my own thoughts, and above all by my scorn of men."

How weary he is of it all, in spite of his pride, — sick of men, as they said toward the close of the century, but yet unsatisfied and insatiable! Corneille has grandly expressed the supreme satiety that boundless power leaves: —

> "How gorged ambition fills me with disgust! . . .
> I longed for empire, and obtained it too,
> But what I longed for little then I knew."

"And for my part, Eucrates," adds Montesquieu's Sulla, still more bitterly and harshly, "I never was so discontented as when I beheld myself absolute master of Rome; when I looked around me and saw neither rivals nor enemies. I thought that some day people would say that I chastised only slaves." The weariness he feels inspires him with his most surprising resolve: he lays aside the dictatorship at the very time when it was thought that the dictatorship was his only safeguard. All the

Romans are dumb before him, and he finds himself alone, impatient and unsatisfied as before. He concludes with these words: "I have astonished mankind, and that is much." It is enough in order to secure victims, not enough to make a man happy.

Montesquieu might have found Sulla again in Cæsar and have given us a sequel, but he appears not to have thought of it. Since we have known Danton and Robespierre, the Gracchi are invested for us with new life, and we see them in all Roman revolutions; and since Bonaparte, Cæsar has encroached on Roman history. The great modern revolution has changed all the points of view, even those from which we behold antiquity. Montesquieu, who judged from so high a standpoint and penetrated so well the genius of Alexander and of Charlemagne, seems inclined to depreciate that of Cæsar. He seems to say with Shakspeare's Cassius: —

"Brutus and Cæsar: what should be in that 'Cæsar'?
Why should that name be sounded more than yours? . . .
Upon what meat doth this our Cæsar feed,
That he is grown so great?"

Montesquieu recognizes the great captain and politician who would have ruled in whatever republic he might have had his birth. But he is willing to see in Cæsar only a tool of des-

tiny, one of those men who accomplish what is inevitable without deciding the great changes of empire and without altering the course of history. "If Cæsar and Pompey had thought as Cato did, others would have thought with Cæsar and Pompey, and the doomed Republic would have been dragged to ruin by another hand."

Thus Montesquieu couples the names of Cæsar and Pompey, and he makes no great difference between the two characters. In this regard he shows the species of historical prepossession by which Corneille was blinded and Bossuet influenced. Montesquieu tells us that "Pompey had a less prompt and a more moderate ambition than Cæsar's. . . . He aspired to the dictatorship, but only by the suffrages of the people. He could not consent to usurp power, but would have liked to have it placed in his hands." Such is the appearance Moreau presents to us in his rivalry with Bonaparte.

Montesquieu praises Brutus, and even goes so far as to discover in political assassination a sort of necessary though criminal remedy for usurpation. He condemns the Empire, and yet shows us that it was inevitable. He judges Augustus and his reign as would a Roman senator who continued to extol the ancient Republic while freely avowing that it

could not now be sustained. This is the most eloquent part of Montesquieu's "Considerations."

The taint of decay was everywhere present in Rome. Order was now no more than "unbroken servitude" calculated "to make men feel the blessedness of knowing but one ruler." Tyranny crept in under the mask of liberty; the very notion of liberty was sophisticated and falsified. The principles which had given Rome its strength became perverted by being carried to excess. The Romans had fought too many battles, made too many conquests. "Ceaselessly engaged in action, struggle, and violence, they wore away like a weapon always in use." Civil broils, such as used to maintain public spirit, had degenerated into factions which perverted it. Wealth corrupted private morals. Tyranny was founded upon these degraded souls, and subjection finally crushed them. Rome's nerve-centre atrophied, her extremities were paralyzed. Her bulk had become unwieldy. The conquered races revolted against her armies scattered along the frontiers, and her armies, concentrating, fell back on the central government and crushed it. They ceased to be armies of citizens from the moment when they usurped the government of the city. The mainspring of war was

weakened by its own activity. Rome grew great by absorbing conquered races, but was, in turn, dissolved in her conquests. She tried to resume her natural limits; but that massive world-force with which she overwhelmed others finally crushed her in turn. We see the Empire constantly shrinking until Italy becomes again the frontier.

Montesquieu had not perceived the part religion played in the early history of Rome; nor does he, in the latter part of his work, give sufficient prominence to the influence of Christianity. He is all admiration for the Antonines, but the revolution which was to transform the ancient world does not impress him. On the other hand, as he proceeds with his picture of the Empire, economical questions take up more and more space in his book. This is because he possessed in the "Pandects" a document from which he obtained a conception of the social state of imperial Rome, as well as a knowledge of her laws. His views on the commercial revolutions, the monetary crises, the abuse of taxation and the consequent abandonment of landed estates, the downfall of provincial administrations, are so many discoveries of his own, and remain the permanent acquisitions of history.

The chapters on Byzantium involved little

more than a cursory glance and the summary of what it revealed; but it was the cursory glance of a genius and the summary of a masterpiece. To appreciate the value and originality of these chapters we must compare them with the corresponding chapters of Voltaire's "Essay on Manners." Voltaire's thin texture sets off by contrast all the strength of Montesquieu's firm web. It is impossible not to suspect some allusion to the theological quarrels of the eighteenth century in the irony with which Montesquieu speaks of the Byzantine Church and its disputes. His Justinian, pretending to unity of law, unity of reign, and unity of faith, borrows more than one trait from Louis XIV. "He thought he had increased the number of believers, while he had only diminished the number of men." He makes a more direct comparison between the struggle of Moslems with Greeks and that of Cromwell's sectaries with the Irish. As to later times, Montesquieu does no more than throw out his ideas, and he concludes by showing that the Turks inherited the causes of the decline of the Byzantine Empire at the very same time when they conquered its capital.

Thus he reaches modern times, the natural goal of his thought, where it was to dwell for the remainder of his life.

CHAPTER V.

PLAN AND COMPOSITION OF "THE SPIRIT OF THE LAWS."

MONTESQUIEU was about forty when he began the construction of his great work. He had long been collecting the material. "I may say that I have worked at it all my life," he wrote. "When I left school, law books were placed in my hands and I sought to find their spirit." This word "spirit," which he was to affix to his work, did not belong to him alone. Domat, in his "Treatise on the Laws," had devoted a chapter to the "Nature and Spirit of the Laws," but he meant by this the real and deep meaning of legislative enactments, "that spirit which in natural laws is equity, and in arbitrary laws the intention of the legislator." Montesquieu would not have had far to seek for such a spirit of the laws, and Domat would have immediately supplied him with it; but he wished to reveal something quite different, — the reason for the existence and efficacy of law.

The problem thus propounded ceased to be legal and became historical. It was not enough to ransack his inner consciousness, to interrogate his reason, and to analyze the texts of the laws; he must plunge into history and ask civilization to reveal its great state secret.

Montesquieu was for some time at a loss: "I pursued the subject without forming a plan, for I knew neither rules nor exceptions." Read over the essay "Of Custom," in Montaigne, and you will gain an idea of the notes Montesquieu had gathered from all sources and accumulated in drawers. Montaigne scatters such notes at random, taking a secret pleasure in printing them in a disorder which appears to him in the highest degree like Nature. He glories in this medley of men and things, of times, countries, and governments, of stories, legends, witticisms, and fine maxims. He has no trouble in deducing from this human miscellany something wherewith to humiliate man and to tear his robes to tatters. There is not a line in the essay but exhibits the infirmity of our reason and the wretched contradictions of our judgment. This strange arsenal that Montaigne constructed to disquiet man and to unsettle every basis of certainty, Pascal appropriates to revive men's faith. In an incomparable demonstration by

means of the absurd, Pascal overwhelms the human intelligence in order to reduce it to nothingness before God. Montesquieu is not content with the diffuse and desultory reason of Montaigne, and is not resigned to the baffled and prostrate reason of Pascal. He must have an explanation, and one of human origin.

"First I observed men, and thought that in this boundless diversity of laws and manners they were not guided merely by their fancy." The search for the idea which guides them is the work not merely of the investigator but of the legislator and friend of humanity. Montesquieu does not separate these two elements. He regards men as "rogues individually, but good honest people as a whole." In his opinion it holds in life as upon the stage, that only noble actions are applauded and only good precepts universally agreed to. He aims to work in the interest of all, his object being "to instruct men." He wishes to enter each state and become a citizen of it in order to give each nation the reason for its customs and maxims, to make each man love his country and government better, to teach the people how states are imperilled and how they are preserved. He writes for the man that he fashions in his own image, "the man," in his words, "who seeks the public good;" and he

considers that "the public good, like moral good, is found between two extremes."

Though he has all mankind in view, yet he gives special attention to France. He sees it inclining toward despotism, and is apprehensive lest despotism may lead to anarchy; that is, to the most terrible form of decline. He wishes to warn his fellow-countrymen, to reanimate their love of liberty, to rediscover and restore their title to citizenship. After having shown the designs of God in the world, Bossuet deduces from these same designs the teaching which was to serve both as a foundation for the Christian monarchy and a lesson to his "Most Christian King." Montesquieu, having shown how a great social institution was organized, how it increased, prospered, declined, and went to ruin, wishes in his turn to draw a lesson from it for all human legislation. He meditated a purely scientific work, which should be to his "Considerations on the Romans" what Bossuet's "Politics derived from Holy Writ" is to his "Discourse on Universal History." This is the noblest enterprise a legislator could undertake, but also the boldest and most difficult. Montesquieu, when he had executed it, could proudly write this motto for his work: *Prolem sine matre creatam*, — "A work without a predecessor."

His difficulty was not the lack of material, of which there was such an immense amount that it escaped his grasp from its very immensity; it was the lack of tools to work with, the sieve and the scales to collect, test, and weigh the components. Montesquieu did not tarry long to examine these components by themselves and investigate their origin. Later on he was to say, speaking of himself, "He does not talk of causes and does not compare causes; but he talks of effects and compares effects." The religious basis on which Domat's "Treatise on the Laws" is erected, concealed from Montesquieu the depth and solidity of that writer's teachings. Domat harmonizes his observations with his faith; the transposition of a few terms would be enough to deprive of its mystic veil this work in reality so practical. Rebelling against Domat's mysticism, Montesquieu rebels none the less against Hobbes's materialism. He recognizes an eternal justice independent of human conventions: "Before laws were made, the relations of justice were possible. To say that there is nothing just or unjust except what positive laws command or prohibit, is to say that before the circle was traced all the radii were not equal."

As Montesquieu had failed to have recourse to archæology and textual criticism in his study

of primitive Rome, so now, in like manner, he failed to utilize anthropology in his study of primitive society. Why could he not have read Buffon? The "Seventh Epoch of Nature" would have explained primitive humanity and the origin of customs to him in a very simple way: —

"The first men, witnesses of the recent and still very frequent convulsions of the earth, having no refuge from floods but the mountains, and often driven from these places of refuge by volcanic fires, trembling while the earth trembled beneath their feet, naked both in body and in mind, exposed to the violence of the elements, victims of the fury of wild beasts whose prey they could not avoid becoming, all shuddering alike with the common thrill of mortal terror, all equally hard pressed by necessity, — were speedily driven to unite: first, to defend themselves by numbers; next, to aid each other by laboring together to make weapons and to construct a dwelling-place."

Montesquieu has only given us an imperfect glimpse of the truth. For lack of clear ideas he lets his imagination have free play. He allows himself to conceive of a state of nature in which timid, weak, and amorous savages enjoyed a sort of brute contentment. Peace was in his opinion the first law of humanity;

war was the second, and began from the time when the societies into which men had grouped themselves began their struggle for existence; as if the social instinct which inclines men to love their fellows and to unite with them was not as primordial as the selfish instinct which inclines them to quarrel and hate. Montesquieu remains perplexed and confused about this great subject. A few lines from one of his "Persian Letters" present perhaps, after all, the clearest statement he has made with regard to it: "I never heard a discourse upon public law which was not ushered in by a careful investigation of the origin of society. This seems to me absurd. If men did not associate together, if they parted and fled from one another, it would be necessary to ask the reason and to investigate why they remain apart; but their very birth connects them together; a son is born by his father's side, and remains there, — this is society, and the cause of society."

Yet as he absolutely must present an opinion and adopt a formula, he takes refuge in the vaguest and most general one. "Laws, in the widest sense of the term, are the necessary relations derived from the nature of things." He rightly intimates that this definition is very wide. It is so wide that it eludes analysis and reaches out toward infinity. It is an algebraic

formula, applying to all real quantities and expressing none of them exactly. It is rigorously true of mathematical and natural laws; its application to political and civil laws is only remote and rather indistinct. To ascertain this application we must pass through the whole course of change and perversion in the meaning of the word "law" itself. Montesquieu does not hesitate at this difficulty. He lays down his formula, leaps over all intermediate ideas, and reaches his subject, — legislation properly so called.

Here, facts are his masters; but the facts overwhelm and stifle him. He may be seen laboring on with difficulty, straying from his course, returning to it wearied, setting forth on his journey, and straying again. "Many times I began, and many times abandoned this work; a thousand times I scattered to the winds the leaves I had written. . . . I found truth only to lose it." At last he sighted the pole-star. He found his path, and had only to advance toward the light.

We are authorized in placing this critical epoch in Montesquieu's career at about the year 1729. He then discovered what he called "the majesty of my subject," and was of opinion that henceforth, if he could maintain this loftiness of view, he should see "the laws as

they issued from their fountain-head." "When I discovered my principles, all that I sought came to me. . . . I laid down my principles and saw the particular cases fall into smooth conformity with them." Let us take time to examine these principles; they furnish the key to the work.

"Men are governed by various things, — climate, religion, laws, governmental maxims, precedents, morals, manners; and from all of these is formed, as a resultant, the general social spirit." These elements making up all human society, and this general spirit animating it, are connected, and form a single entity. It is not a fortuitous aggregation of lifeless materials; it is a living organism. The laws are the nerves of this body politic; they must correspond to the nature and uses of the organs they animate. They are dependent on certain elements which man cannot change, and on certain others which he can change only after many efforts, and very slowly.

"They must have relations to the physical characteristics of a country, to the climate, — frigid, torrid, or temperate, — to the nature of the land, its situation, its extent, to the people's mode of life; . . . they must have relations to the degree of liberty that the constitution can admit of; to the religion of the inhabitants,

their inclinations, their wealth, their number, their commerce, their morals, their manners. Finally, they have relations one to another, to their origin, to the aim of the legislator, to the order of things under which they were established. They must be considered from all these points of view, and I undertake so to consider them in this work. I shall examine all these relations; together they form what I have called the *Spirit of the Laws.*"

The social institution thus considered appears to Montesquieu the very soul of human society. If this soul is vigorous and sound, society prospers; if it is weak and corrupted, society is dissolved. Upon men's comprehension of this social fabric, upon the skill with which it is established or sustained, depend the reforms that regenerate society and the revolutions that overwhelm it. Moreover, there is no sort of constitution which is, in itself, superior to others. There are conditions of existence, public and private morals, a national spirit, a general tendency, to which every constitution is subordinate. The best and most legitimate for each nation is that which is most appropriate to the character and traditions of the people for which it is designed.

From this point of view Montesquieu examines the different kinds of government, and

distinguishes in each its nature and its principle. The nature of the government is what gives it existence; its principle is what gives it activity. To define the nature of a government is to determine its structure; to define its principle is to analyze the morals and passions of the men who practise it.

From the nature of governments, Montesquieu divides them into republican, monarchical, and despotic. If the people as a whole, or a part of the people, is sovereign, we have democracy or aristocracy; if the power is exercised by one alone in accordance with fixed and stable laws, we have monarchy; if it is exercised arbitrarily at the will or caprice of the sovereign alone, we have despotism. This classification has been objected to. Montesquieu confounds the constitution of the state, which can be either autocratic, oligarchic, aristocratic, or democratic, with the government of the state, which is necessarily either monarchical or republican. These fundamental types of constitution and government may combine and produce mixed systems. But there is no need here of insisting upon these distinctions. To Montesquieu they are only a framework, and the important thing is to see how he has arranged his picture.

In it we notice two main groups: the laws

resulting from the nature of government, — these are the political laws; and those resulting from the principle of government, — these are, more particularly, the civil and social laws. Montesquieu displays the causes of the duration and decay of each class. "The decline of every government almost always begins on the side of its principles." It is on this subject that he rises to his highest point, and that he gives us, in truth, the very essence of his thought, the great and serviceable counsel of his work. "Custom," Pascal had said after reading Montaigne, "by the very fact of being received, creates all equity, and is the mystic basis of its authority; he who refers law to its origin annihilates it." Law is derived from the nature of things, replies Montesquieu; the necessity for its existence is the basis of its authority; he who refers it to its origin strengthens it. Montesquieu's view is the more just and the more profound.

The study of governments fills the first eight books of "The Spirit of the Laws." Montesquieu passes from fundamental laws to subordinate enactments, and considers them successively in their different relations to the defence of the state, to the political liberty of citizens, to taxes, climate, land, morals, manners, civil liberty, population, and religion.

Such is the object of Books IX. to XXVI. Books XXVII. to XXXI., whatever importance they may have in themselves, form a mere supplement devoted to an essay on the Roman laws concerning inheritance, and to an unfinished history of feudal laws in France. In reality, the work ends with Book XXVI. The strong coherence which gives the work the stamp of majesty is completely felt only in the first part. In the development of the later books the chain of connection becomes weaker, and digressions multiply.

The reason for this is that, however vast Montesquieu's genius, it could not embrace in one connected whole the formidable mass of notes gathered during thirty years' reading. Though the frame was so large, the picture was larger; the canvas projects at the sides and swells out in places on the surface. Montesquieu perceived this. So long as he worked upon the earlier books he was all joy and ardor. "My great work is going forward with giant strides," he wrote in 1744 to the Abbé Guasco. Then was the time when "all he sought came to him of itself." But little by little masses of facts accumulated at the outlets and blocked them up. He forces the facts. "Everything yields to my principles," he wrote toward the last; but he does not see

"particular cases smoothly conforming to them," as formerly. He makes an effort, canvasses the texts, arrays analogies, heaps up, but he no longer welds together. He settles himself doggedly to the task; he grows fatigued. "I am reaching an advanced age; and because of the vastness of the undertaking the work recedes," he wrote in 1745; and in 1747, "My work grows dull. . . . I am overcome by weariness." The concluding books on feudalism exhaust him. "This will make three hours' reading; but I assure you that the labor it has cost me has whitened my hair." "This work has almost killed me," he wrote, after revising the final proofs; "I am going to rest; I shall labor no more."

This fatigue made him especially anxious about the perfection of his work. He had written, to be placed at the beginning of the second volume, before Book XX., an invocation to the Muses, in which this sentiment is expressed in some of those exquisite phrases, wholly antique in form and wholly fresh in thought, that give us a foretaste of André Chénier's prose: "Virgins of the Pierian mount, do you hear my invocation? Inspire and hearten me. The race is long and I am sad and weary. Instil into my spirit the sweetness and delight which once I knew and

which are now so far from me. . . . If you will not soften the ruggedness of my task, conceal at least all trace of labor; let me not appear to teach, and yet let my reader be instructed; let what is strenuously carved by thought seem but the bloom of feeling. . . . The waters of your fountain, springing from the rock you love to haunt, do not rise in air merely to fall again; they flow through the gladdened meadow."

The artist in Montesquieu was as exacting as the thinker. The literary composition of the work gave him as much anxiety as his method and his search for principles. He desired perfect order in the book, but an order which steals into the reader's mind without imposing a burden upon his attention; and with it a ceaseless variety in the movement of the style in order to divert the reader from the monotony of the route and the weight of the baggage. He was less anxious "to be read than to stimulate thought." He always desired to leave something to be guessed, that the reader might be complimented and his discernment be flattered, by thus becoming a partner in the work. "We remember," he says somewhere, "what we have seen, and begin to imagine what we shall see; the mind is elated with a sense of capaciousness and penetra-

tion." He is a master, and an incomparable master, in the art of planning by-paths, of opening up vistas, of making the most of resting-places, of distributing clumps of trees and grassy seats. When the way is level and easy, he discloses all points of the compass at a glance; when it is steep and difficult, he keeps his views in reserve and allures by anticipation. He knows wonderfully well the fashionable people for whom he writes, their impatient curiosity, their desultory way of reading, their dread of fatigue, their desire to reach the goal, their haste to leave it when once reached, and their constantly extemporized reflections. Hence all the divisions and subdivisions of the book, — those chapters which state a great problem in three lines, those multiplied titles and subtitles, the continual reminders to the fugitive memory, the sauce for palling curiosity, the constant appeal to the frivolous. He interrupts himself, interrogates his readers, begs pardon, so to say, for keeping them so long, and asks them still to follow him: " I must turn to the right and to the left till I find my way out and reach the light. . . . I should like to float upon a tranquil stream, but am carried away by a torrent."

Montesquieu was absent-minded; he had weak eyes and short breath. He dictated,

and conversed while dictating. His mode of expression was formed from his very nature. "I see," said he, "that some people are shocked at digressions; but it seems to me that those who know how to make them are like those who have long arms: they reach farther." Montesquieu's digressions sometimes transcend due limits, but it is not safe to ignore either their art or their value. Compare "The Spirit of the Laws" with "Democracy in America." There is the same inner structure in both works, the same elevation of thought, the same breadth of view. Whence comes that degree of tension and austerity, that sort of Jansenistic melancholy permeating Tocqueville's book, in marked contrast to the easy manner, the cheerful and affable style, which so adorn Montesquieu's pages? It comes from the fact that Tocqueville is from Normandy, a foggy land, from whose moist valleys you look out upon a sea forever storm-tossed. He is a man of but one task and one purpose; he no more sought diversion for the mind in reading, than he wasted his time in dissipating amusements. He lacks vagrant erudition, chance anecdotes, witty sallies coming one knows not whence, — in a word, sprightliness and color; he is not of the tribe of Montaigne.

The division — one might almost say the mincing — of Montesquieu's books and chapters is found even in his sentence structure. It is brisk, sometimes too concise. Montesquieu likes to fling his darts, but he soon loses breath. As he multiplies the darts, he multiplies the pauses. Buffon — himself broad of chest and sound in wind, unable to break up his paragraphs or cut down his phrases, seeing everything in great movements, by epochs, in majestic ebb and flow like the sea — reproached Montesquieu with this constant fragmentariness of thought and style. "Because of this," said he, in his famous address to the Academy, "the book appears clearer to the eye, but the author's design remains obscure." This is hypercriticism. It is not obscurity that should be criticised in Montesquieu, but rather an excessive concentration of light and a continual play of converging lenses upon certain points. Madame du Deffand for the sake of a jest,[1] and Voltaire out of professional jealousy, reproached him with having put too

[1] The witticism is well known to all readers of French. It turns upon the fact that the word *esprit* (spirit) means also "wit." Madame du Deffand had to change but a word in the title of Montesquieu's great work (L'Esprit des Lois) to make it mean "Wit upon the Laws" (L'Esprit sur les Lois). — TR.

much wit into his book. He had to make up for the lack of wit in all the authors who had written on legislation before him, and in most of those who have written since. If he needed an excuse, posterity would accept this one.

Let us acknowledge, nevertheless, that though there is an infinite amount of art in "The Spirit of the Laws," and exquisite art too, there is also some artifice. Montesquieu felt himself forced into it in order to cajole the censors, to baffle the Sorbonne, and to secure free circulation for his book throughout France without imperilling his own peace of mind. He disliked to be obliged to disavow his work, as in the case of the "Persian Letters." As he was doing the work of the moralist, and no longer that of the satirist, he was anxious to have the public honor of it. To the license and irreverence of his youth had succeeded the respectful tone of a man taking life seriously, and devoting himself to the task of instructing mankind. Not that the freethinking tone has entirely disappeared. It becomes noticeable here and there, especially in the digressions, and when the plan of the book leads the author to Oriental countries and polygamous morals. These are only episodes; and though lingering over them with some fondness, Montesquieu does not linger long.

But though infidelity has disappeared, no exclusive tone of veneration has taken its place. Montesquieu treats religions with gravity, as he does all human institutions. In his " Considerations upon the Romans," he had, as it were, banished Providence from history; he does not divorce religion from society, but he places it among the various elements of social life, after the army, after the political constitution, after climate, soil, morals, along with commerce, population, and police. This accords neither with the true historical proportions, nor with just estimates of social life; moreover, this is by no means the teaching of the Church; but it is really the spirit of the book, and this spirit is opposed to orthodoxy. Montesquieu well knew this; he was far from agreeing with Rome and the Sorbonne, and the circumstance did not fail to disturb him.

He tried to conform to the rules and to take precautions. He had no choice of means, and employed those which Montaigne had used and which Buffon was soon to use. He scattered here and there through his book restrictive phrases, learned reservations, and high-sounding professions of faith. These formed an impertinent excrescence upon the body of his discourse; but taken alone, de-

tached and extracted, they were intended to remove all suspicions as to the author's teachings. Montaigne had employed this literary subterfuge with ironical and sceptical good-humor. Buffon brought to it a lofty and easy manner suited to delude the simple. Montesquieu, less indifferent than Montaigne to the pledges he made, and less bold than Buffon in confronting those in authority, employed it with a sort of awkward timidity, savoring of cant phraseology, caricature, and extravagance. No one could be deceived by such shifts. He placed "the true religion," he declared, apart from all the rest; but this reservation was merely parenthetical, and through the whole body of the book he spoke of it as of the rest, — namely, in the tone of a layman, a statesman, and a legislator. He admitted that some religions were of more or less use, and that the most perfect, the "revealed religion itself, . . . which has its root in heaven," produced more or less happy effects according to the countries where it was propagated and the men who practised it. "When Montezuma so obstinately insisted that the religion of the Spaniards was good for their country, and that of the Mexicans for his, he did not utter an absurdity." But he pronounced a heretical opinion; and though

Montezuma could not be expected to know this, Montesquieu was quite aware of it.

Yet he hoped that the censors would be satisfied, so far as the faith was concerned, with these verbal reservations. He thought that as to politics they would show themselves more exacting. He suppressed, as too open to suspicion, a chapter on the royal warrants for arbitrary imprisonment or banishment.[1] He skilfully veiled observations which might appear seditious, and comparisons which would perhaps shock the patriotism of fools. It may be that this is one reason why he described in a wholly general and cosmopolitan way, without a trace of technical terms or proper names, the merely local phenomenon of England's constitution. He seems to be summing up the results of numerous observations regarding different countries, and referring to a common type a number of similar institutions; and this generalization, so arbitrary in itself, has often been considered the result of prudence. In other cases he proceeds by suggestion. The chapter entitled " Fatal Consequences of Luxury in China " is simply a " Chinese Letter; " he talks of none but Frenchmen.

There is no more singular instance of these oratorical precautions than the chapter — one

[1] Lettres de cachet.

of the profoundest in the book — in which Montesquieu explains "how the laws may co-operate in forming the morals, manners, and character of a nation." England alone is concerned, and Montesquieu does not once mention that country. He represents the case as hypothetical, and this mode of reasoning leads to strange circumlocutions like the following:

"If this nation lived in an island, it would not seek conquests, because isolated conquests would weaken it. . . . If this nation was situated toward the north and had a great many superfluous commodities, since it would also lack a great many articles which its climate would refuse, it would carry on a necessary and extensive trade with southern countries. . . . It might be that it had at some time subjugated a neighboring nation which by its favorable situation, excellent harbors, and the nature of its wealth, had caused jealousy; so that although the conquerors should have given it their own laws, it would be held in complete dependence."

Here is seen the excess, the strain, and the abuse of the process. By wishing to refine upon insinuations and to speak in riddles to the knowing, Montesquieu attains the worst results, — he becomes embarrassed and heavy in his very subtlety. How much greater he is

when he dares to be himself, and to call things by their right names! Why did he not write all of that profound study of England's political morals with the same pen which, a few pages farther on, exhibits in masterly strokes the "Spirit of England in respect to Commerce": "Other nations have made their commercial interests give way to politics; England has always made political interests give way to commerce. No other people in the world has equal reason to boast of possessing at one and the same time these three great things, — religion, commerce, and liberty." Instead of a picture in the style of Paul Veronese, as Voltaire has finely said, — a picture "with brilliant colors, ease of manner, and some defects in costume," — Montesquieu might have left a painting like one of Rembrandt's, a luminous and concentrated image of reality.

If Montesquieu sometimes generalizes in this way out of circumspection, he does it oftener out of taste and the coquetry of wit. A shade of mystery in one's language is a mark of breeding, and sets off a subject in itself unpromising and difficult. Generalization, which is sometimes a discreet veil to his thought, is more often its stage drapery, — and it is the fashionable drapery. Montesquieu naturally

clothes his ideas with it by a mental tendency which he shares with his contemporaries and by a secret inclination to flatter their caprices. He has his own vocabulary and his own rhetoric. To read him intelligently we should familiarize ourselves with his words and his figures of speech. As for the words, the task is easy: he is an excellent writer, and never employs a word without a full sense of its meaning; once possessed of his usage, we always know what he means. The application of his figures is more uncertain: we need sometimes to make transpositions, to put two things together, to guess his riddles, to translate fine general propositions into individual names and cases, — but all this must be done with a great deal of prudence.

We should make ourselves liable to serious mistakes, disparage Montesquieu, and miss his purpose, if we applied to the whole work a system of interpretation authorized only in certain very special and particular instances. Montesquieu has a genius for generalization,— this is his strength and his weakness. Let us take him for what he professes to be. Let us read the book as it stands, without commentary and almost without notes. Montesquieu had his reasons for publishing so few of the innumerable notes he had gathered. If in

several passages he wished the reader to say, "This is England," or "This is Versailles," he also meant the reader to think, regarding the same passages, "The conditions being the same, this is what will happen wherever people act as they do in England or at Versailles." Montesquieu wished to present his types in such a way that they might apply to different cases; the reader was not to know precisely whether he had Rome, Athens, or Sparta before his eyes, — he was simply to feel himself in the presence of democracy and in the heart of the republic. Similarly, in the picture of the monarchy the reader was to recognize the features of Spain by the side of those of France, while sensible that he had to deal, after all, neither with Spain nor with France, but with the conditions common to both. In this respect Montesquieu intended that his whole work should resemble a certain chapter in Book XIII., "How Depopulation can be Remedied." Read it with your eyes toward the south, and you will recognize Spain; turn to the east, and Poland will seem to be suggested. The truth is that the examples are drawn from several countries at once, that the conclusion is general, and that the lesson applies with equal pertinence to these nations and to all others where the conditions are the same.

In a word, Montesquieu's work is classic. He does not follow governments through their historical development and their successive revolutions; he exhibits them settled, complete, statical, as if the essential features of all the epochs of their history were combined. There is no chronology or perspective; everything stands upon the same plane. This is unity of time, place, and action, transferred from the theatre to legislation. Montesquieu considers only the laws, their aim, their influence, their destiny; the rest is the foundation for his work, it is not the edifice. He has constructed his underpinning with solidity, and has driven his piles deep enough to find the earth firm and the foundation sure; but all this is hidden from sight. He studied and painted the monarchy or the republic as Molière studied and painted the Miser, the Misanthrope, or the Hypocrite; or La Bruyère the Great, the Politicians, the Freethinkers. It is an honor to him, as well as to the classics, his masters, to show how history sustains the correctness of his portrayal, and how we can put names and dates under each of his pictures; but we should pervert his meaning by adding further particulars.

Again, we should misconstrue it by representing it as abstract. Montesquieu endeavors

to form his general ideas by means of facts that he has observed; he does not pretend to conceive, by dint of pure speculation, absolute and universal ideas. He tries to form a common type from the monarchies or republics he knows; he does not deduce from an *a priori* ideal, monarchy in its essence, nor the rational republic. It follows that the principles he lays down, and the laws he develops from them, derive all their meaning and application from the relation they sustain to reality.

CHAPTER VI.

"THE SPIRIT OF THE LAWS," — POLITICAL LAWS AND GOVERNMENTS.

THE book on "Governments" begins with democratic government; that is, with the kind in which the people are sovereign. Montesquieu's conception is modelled after Rome, in the ages when the Republic was still the city; after Athens and Lacedæmon, "at a time when Greece was a world and the Greek cities nations." The republic, so constituted, is suited only to a narrow territory; the citizens, few in number, are divided into classes; they own slaves, and busy themselves with nothing but politics and war. Thanks to their freedom from private cares and to the narrow limits of the city, they are able to attend to the innumerable and absorbing duties of municipal life. They carry on little or no commerce, — enough only to arouse a spirit "of frugality, good management, moderation, labor, wisdom, tranquillity, order, and regularity." The land is divided among them in equal por-

tions. By too extensive estates, or by business on too large a scale, wealth would be amassed by private individuals, and equality would consequently be destroyed. The social hierarchy keeps up a strict barrier between the classes. "It was only by the corruption of certain democracies that artisans came to be citizens."

The people as a whole — that is, the assembly of citizens — make the laws and exercise the sovereign power. "Their votes declare their intentions." They choose their magistrates from men whose minds they know and whose administration they continually control. They practise real equality, which consists "in obeying and commanding one's equals." They enjoy that kind of liberty which Bossuet before Montesquieu had admirably defined in describing a government "where no one is subject to anything but the law, and where the law is more powerful than men." This was a very singular government, which could in no wise satisfy our modern notions of freedom. Our freedom is before all else civil and individual; that of the ancients was exclusively civic, and pertained wholly to the state. Freedom of conscience is, in our view, the first and most essential of our liberties; but the ancients had not even conceived of such a thing. Liberty,

in their view, consisted solely in the exercise of sovereignty. The individual had no rights beyond his vote, and casting his vote exhausted his rights; that done, he remained in everything — in his beliefs, his family, his property, his labor, and in each of his acts — subject to the majority of votes, which was the highest law of the land. This, according to Montesquieu, is the nature of a republican form of government in a democracy.

Such a government could not be set up except in a society where the deep sense of social solidarity, the general conception of social needs and interests, and the equal devotion of all to the common weal, permitted the foundation of institutions so contrary to every man's insubordinate, selfish, and covetous instincts. The reason for the existence of democratic governments is found in these moral conditions. This is why Montesquieu concludes that the principle of this form of government is virtue, and then defines this virtue as "the love of the republic . . . the love of the laws and of country . . . the love of country, that is, the love of equality."

The virtue which has established such institutions is the only thing capable of sustaining them. The laws ought therefore to teach citizens such virtue, and oblige them to practise

it. The omnipotent power of the state over the family, the compulsory education of children, the apportionment of the land, the limitation of inheritance, the sumptuary laws, form the spirit of these crushing enactments. Everything in them derives from this maxim: "The popular welfare is the highest law."

Yet in spite of these heroic remedies, whether because not employed in time or because of abuse, democracy is susceptible of decay. This occurs when the spirit of equality becomes perverted, and ambition is no longer confined "solely to the happiness of rendering to one's country greater services than other citizens;" personal covetousness corrupts ambition, and pride perverts it; private wealth increases, and with it indifference to the public welfare; the sentiment of personal independence is substituted for that of civil liberty; solidarity is lost; jealousy manifests itself openly; the bonds of discipline are relaxed; equality degenerates into anarchy; that austerity, which by suppressing so many selfish passions only gave more strength to the social passions it fostered, now disappears from view; in a word, the citizen loses that self-renunciation which was the active principle of all republican virtue. Then all is over, and even remedies become fatal; for the artificial strength

they give the state is profitable only to tyranny, and hastens the ruin of the republic.

"When the principles of the government are once corrupted, the best laws become bad, and injurious to the state; while these principles remain sound, bad laws produce the effect of good ones; the vigor of the principle pervades the whole. . . . The vital principle of democracy becomes corrupt, not only when the spirit of equality is lost, but also when it is carried to extremes, — when each one desires equality with those whom he chooses to command him. . . . There can then be no more virtue in the republic."

Montesquieu's democracy seems very far removed from our modern civilization. It takes on, when we picture it to our minds, a sort of paradoxical and Utopian aspect. In fact, Montesquieu, on looking about him for some surviving example of these vanished republics, discovered nothing analogous except in Paraguay, or among monks in convents. Nothing is really more opposed to our modern conceptions of country, religion, and labor; to our ideas of the incessant transformation of institutions, beliefs, fortunes, and even manners; to the doctrine of progress and the "Declaration of Human Rights," than the spirit of these ancient republics, with their social hierarchy,

their slaves, and their state despotism. Montesquieu did not foresee the speedy advent and prodigious development of modern democracy. Still less would he believe it possible to organize democratic republics in vast countries. "This perfect organization cannot be promised," said he, when treating of Greek institutions, "amid the confusion, the oversights, the vast extent of a great nation's affairs. . . . Greek politicians, living under a popular form of government, recognized no other power as capable of sustaining it except the power of virtue. The politicians of our day talk of nothing but manufactures, commerce, wealth, and even luxury."

Montesquieu did not suspect that these manufactures, this commerce, this wealth, and even this luxury, which he considered incompatible with democracies, would one day become their corner-stone, and that this revolution would be effected in his own country and permeate all Europe. Yet there are, in all democracies, organic and permanent characteristics subsisting in spite of differences of form. Montesquieu viewed them from so high a standpoint, and with a glance so penetrating, that he discerned the most essential of these characteristics. Many counsels which he derived from his inspection of ancient

democracies apply with as much justice to the democracies of to-day. There is danger lest governments be corrupted by the same excesses. The government depends on the plurality of votes, and this plurality is composed of individuals whose selfish passions are constantly at work to blind them to the public interest. These individuals are naturally inclined to confound liberty with participation in power, the public treasury with the common inheritance of private persons, progress with perpetual innovation, and right with numbers, — that is, with might; so that in a constitution based on the equality and liberty of the individual, the majority tends to subjugate the minority, and the state to absorb the nation. It must then be constantly repeated that freedom derives its only value from those who make use of it, the law from those who establish it, the government from those who direct it, the state, in fine, from the nation, — that is, from the individuals who make up the state. Each one is responsible for the common welfare, and each is charged with the interests of all. If the majority of the citizens are greedy, jealous, insubordinate, equality engenders spoliation, ostracism, anarchy, and necessarily brings about the decline of the state. The more the rights of the individual are extended,

the more imperious his passions become. The more extensive becomes the sway in society of that pitiless law of the struggle for existence, the more necessary it becomes to saturate democracies with the principles of national unity, paramount love of country, social combination for the public good. What else is this but *virtue*, as defined by Montesquieu?

Such virtue would not be less necessary to aristocracies,—that is, republics where the sovereign power is in the hands of a few. Montesquieu treats these aristocracies at length, but the subject has now no interest for us; republics of this kind have vanished from Europe. But in the days of Montesquieu this political phenomenon still existed; he had observed it at Venice, and studied it in the case of Poland. Touching this latter republic, his views are far-reaching. He said that it was the most imperfect of aristocracies, "one in which those who obey are in civil bondage to those who rule." In Poland, the republic only existed for the nobles, and they ruined it. To sustain it, "the families of the aristocracy ought to be of the people so far as possible." Their privileges must be ceaselessly renewed and rendered legitimate by new services, or else the republic is only a "despotic government with several despots." The independence

of each of them becomes the object of the laws, and the result is the oppression of all. The nobles being very numerous, if corruption affects them, the last resource of the state is gone. "Anarchy degenerates into annihilation." An aristocracy so organized must constantly be kept awake by some fear. "The more security such states have, the more subject they are, like stagnant waters, to become corrupt."

Occasions for uneasiness were lacking neither in Venice nor in Poland; but these republics, weak and blind, trusted an illusory law of nations that no one respected. Beholding the division of their enemies, they dismissed their fears. The Venetians abdicated, as it were; the Poles, more divided by faction than their neighbors by rivalry, surrendered of themselves. An agreement was more easily reached between Russia, Prussia, and Austria, for partitioning the republic, than among the Poles for their own defence. The appeals of the Doge Rénier in 1780, and the attempt the Polish patriots made in 1790 to regenerate their country, are only a commentary on Montesquieu's precepts. The fall of these two aristocracies is the justification of his conclusions. "If a republic is small, it is destroyed by force from without; if large, by vice within," he had said. Venice and Poland were put in jeopardy

by vice within, and annihilated by force from without.

Democracy, which to Montesquieu was only a historical phenomenon, rules to-day in some of the greatest nations of the world, and tends to be introduced among the rest; the monarchy which he described was the most widespread form of government in Europe, and in our day has almost completely disappeared. Montesquieu studied it fondly, and devoted a chapter to prove its excellence. We cannot doubt that in composing this part of his work his mind was constantly taken up with the French monarchy and the decline with which it seemed threatened. France was tending toward despotism, and nothing was more different from despotism than monarchy as he conceived it. Bossuet had distinguished absolute monarchy, in which the prince governs according to the laws, from arbitrary monarchy, in which he governs according to his caprice. This arbitrary government Montesquieu calls despotism, and styles as monarchy proper the government in which "one person governs by fixed and established laws."

It is the nature of monarchy to be founded upon laws. The monarch is the source of all power, political and civil; but he exercises this power by means of channels "through

which his power flows." These are "the intermediate, subordinate, and dependent powers," moderating "the shifting and capricious will of a single person." The two foremost of these powers are the nobility and clergy; the third is a body of magistrates, serving as a repository for constitutional laws, and reminding the prince of them when he seems to forget them. This hierarchy of rank is the necessary condition of monarchical government. If it is destroyed, the inevitable tendency is toward either despotism or democracy.

While virtue is the essential principle of republics, the essential principle of monarchy is honor: not that honor is opposed to virtue; honor is pre-eminently the political virtue of monarchy. Virtue, for the republican, consists in love of country and of equality; for the monarchist, it consists in love of the monarch and of privilege, — a love that causes men to serve the monarch, and by their service to restrain him. Monarchy was established because the nation was not capable of governing itself. The nation intrusted the government to a chief and to his descendants. Such a government is based upon obedience; and in order to sustain it obedience must be glorious and must not degenerate into subjection. To supply the lack of independence

there must be the greatness of soul which results from a high sense of honor. To understand this chapter well one should refer continually to the "Memoirs of Saint-Simon."

The laws derived from this principle, laws which consequently give stability to monarchy, are those sustaining the sentiment of honor and the prerogatives on which it rests; namely, those relating to privileges, primogeniture, entail, prohibition to nobles to engage in commerce.

Since monarchy maintains itself by the opposition of the various intermediate powers, the spirit of this form of government is moderation. If it ceases to be moderate, it exposes itself to danger, and perishes by the corruption of its principle. Honor turns into vanity, obedience degenerates into servitude, and is no longer a virtue, but a means of winning success. Service to the court swallows up service to the state. "If the prince loves free souls," says Montesquieu, "he will have subjects; if he loves base souls he will have slaves." Such base souls he finds, and he degrades them by subjecting them to his caprices; he reduces magistrates to silence; he suppresses constitutional laws; he governs arbitrarily; and this despotism finally corrupting the court, the court corrupts the people by its example. The morals which made monarchy possible

disappear; official bodies lose their dignity, privileges their propriety, the privileged classes their authority; and all tends, just as if privileges had been abolished, to one or the other of those inevitable alternatives of a monarchy in its decline, — democracy or despotism.

Montesquieu abhors despotism. He draws a frightful picture of it, but it is not a lifelike picture. Montesquieu did not observe the facts himself, and documents were wanting. He considered only Oriental despotism, that of Ispahan and Constantinople, that of the "Persian Letters," with its mysterious seraglios, its terrible harems, its jealous sultans and melancholy eunuchs. If he had only known Russia, it would have revealed to him a much more interesting type, and one, too, much more accessible to Europeans, — a despotism tempered by religion. Montesquieu gives only very distant and very confused glimpses of the autocracy of the tzars. What Russia had then already shown, and what she has shown since, unsettles many of his maxims and overthrows some of them.

"No one," said he, concerning despotisms, "loves either the state or the sovereign." Russia is an empire in which the ruler is the living and arbitrary law; but the love he inspires in the people gives the government all

its strength. Montesquieu thinks such a government inconsistent with greatness of soul; but Catherine II. and her grandson Alexander have proved the contrary. He considers that the liberty the tzar has in choosing his successor renders his throne tottering, "since the order of succession is one of the things most important for the people to know." But, though the most fantastic disorder in the succession to the throne prevailed during the whole eighteenth century, the throne grew constantly stronger, and the Russian people only inquired the name of its master in order to change, in its prayers, the name of its patron saint. In order to have done with despotism, Montesquieu wrote that withering chapter consisting of only three lines, and yet containing so grand an image: "When the savages of Louisiana wish to have fruit, they cut down a tree and pluck the fruit. Such is despotic government." This is the despotism of the Sultan, not that of the Tzar Peter or of Catherine the Great.

It may be asked why, though treating almost wholly of the monstrous Oriental despotisms, he has so dwelt upon the subject, and how he could discuss with so much interest their nature, their vital principle, and the corruption of this principle. Symmetry doubtless was

one consideration; his impression from reading Tavernier and Chardin also counts for something. It is likewise allowable to think that Montesquieu sought an effective contrast, that he wished to set off by a sort of relief the excellence of monarchy and its danger of degenerating, and so to prepare minds by a natural transition for a better comprehension of his ideas on political liberty.

He has treated of this in a book by itself, apart from forms of government. Political liberty is, indeed, compatible with several forms, and is not necessarily attached to either of those with which it is compatible. Montesquieu distinguishes it from national independence, which is the freedom of a people from foreign control, and from civil liberty, which is free control of person and property among the people. He defines political liberty as "the right to do all that the laws permit. . . . Liberty can consist only in being able to do what one ought to desire, and in not being forced to do what one ought not to desire." This definition is obscure and inadequate. The law may be, and has been, a tool of despotism. It may demand of me what I ought not to desire, and forbid what I ought to desire. The acts of Parliament oppressing the Catholics and the English Dissenters were laws.

Freedom of conscience was enjoyed in the dominions of Frederick the Great, where the king reigned without control; but was not enjoyed in England, where there was a parliament and responsible ministers.

Where, then, is liberty to be found? "Political liberty is not to be found except in moderate governments. But it does not always exist in moderate governments; it exists only when power is not abused. . . . In order that power may not be abused it must be so distributed that power shall check power."

This is the famous theory of the distribution of powers. Montesquieu sums it up in the following terms: "When, in the same person or in the same legislative body, the law-making power is combined with the administrative power, there is no liberty, because there is room for fear lest the same monarch or the same senate make tyrannical laws for the purpose of executing them tyrannically." This has been illustrated in France under the sway of monarchy pure and simple, and under that of assemblies. The revocation of the Edict of Nantes, the law of "arrest on suspicion," and the law of "hostages," afford proof of it. The legislative and executive powers, then, must be separated; but if this is necessary to secure liberty, it is nevertheless not sufficient.

"There is still no liberty, if the judicial power be not separated from the legislative and executive. If the judicial were combined with the legislative power, the judge would have arbitrary control over the lives and liberties of citizens, for he would also be the law-giver; and if the judicial were combined with the executive power, the judge might employ oppressive violence." This separation had, in fact, already taken place in several European governments, — in the French government, for example, — and this is why Montesquieu termed these governments moderate.

Montesquieu did not invent this system: Aristotle had proposed it; but none had set it forth in a form so simple and so convincing. Montesquieu transported it from the region of theory to that of practice, and popularized it. He had not seen all these rules applied except in England, and it is England he describes when he wishes to present an example of a nation "which regards political liberty as the direct object of its constitution."

He does not give the history of this constitution, and touches on the problem of its origin only in order to repeat once more, in "The Spirit of the Laws," a favorite paradox from the "Persian Letters": "If you will read the admirable work of Tacitus called 'Germa-

nia,' you will see that it is from the Germans that the English derived their idea of political government. This fine system was found in the woods." Montesquieu boasted of descending from those Goths who, "after conquering the Roman Empire, established everywhere monarchy and liberty." He had his public reasons for seeking in Tacitus the elements of the English constitution, and his private satisfaction in finding them there. Very grave and learned men have sought them since in the same quarter, have found them in their turn, and displayed them to other learned personages who are confident of having seen them. It would be impertinent to rally Montesquieu upon this ancestral prejudice, and we ought to be grateful to him for having displayed it so good-humoredly and with so little pedantry. I will try to imitate him by not insisting upon the subject, and will refer the reader to Gneist and Freeman, the one a German the other an Englishman, both of whom stand up for Tacitus and the forests; and to M. Guizot and his more recent disciple and successor, M. Boutmy, who seem to me to refute Montesquieu's prejudice by his own method. The two latter here apply that method with more breadth than Montesquieu himself, showing that the origin of the English constitution is

rather historical than ethnological, and that it sprang neither from forests nor from fields, but "from necessities created by circumstances."

Montesquieu analyzes this constitution in its maturity, when it had reached such a stage of development that other states were capable of assimilating it. He assumes it as settled. He collects and generalizes its elements as he had done in the case of the ancient republics. He throws the strongest light upon that portion of England's institutions which can be transferred to other countries. And this transference has actually occurred on all sides, not only in the case of monarchies, but, with some formal changes, in that of republics whose territory is too great for the people to govern it directly.

The following is Montesquieu's conception of the constitution on which the English government is based. To make the laws and control their execution, there is a body of legislators composed of representatives of the people elected by a system of suffrage almost universal, for it must include "all citizens . . . except those who are in such a low condition that they are considered to have no will of their own;" there is an upper chamber composed of hereditary members sharing with the legislative assembly in making the laws, except

those relating to taxes, in regard to which the upper chamber is granted only the right to oppose for fear lest it be corrupted by the crown; there is an executive power intrusted to a monarch, because just as legislation demands deliberation, which is the act of several persons, so execution requires volition, which properly belongs to but one; the executive has not necessarily the power of originating the laws, and takes no part in debates, but has the right to veto new laws; if there is no monarch, the executive power must not be intrusted to members of the legislative assembly, because then the two powers would be blended; the legislative assembly can judge neither the conduct nor the person of the monarch, because this would be a confusion of powers; but though the monarch is inviolable and sacred, his ministers can be called to account and punished. The two chambers meet at stated times, and each year vote on the amount of the taxes and the number of soldiers.

The very general character which Montesquieu gave to this theory has helped to propagate it; but this general application stamps it as literature with a sort of dryness. This chapter is all made up of maxims. It is a masterpiece of design, but lacks life and

color. It must be supplemented by that chapter of Book XIX., in which Montesquieu describes the English political morals and analyzes their public spirit, the real author, interpreter, and guardian of their constitution. He shows the vigor and constancy of their love for their liberties. Against this political virtue he sets off the defects connected with it, — constant uneasiness in the body politic, inconsistency in government, corruption in elections and in public business, impatience of authority, commercial jealousy, sharp bargains, haughtiness at all junctures, and such arrogance that, even in peace, the English seem to "negotiate with none but enemies." He is doubtless a little too hasty in his generalization when he decides that the English are not conquerors by nature, and that they are free from "destructive prejudices." They have conquered one of the vastest empires of the world, and destroyed enormous numbers of the aborigines. Montesquieu speaks of Ireland and the despotism there with too much indulgence; but as a whole his views are sound.

He detected and laid bare that terrible English energy which so long escaped the attention of continental Europe. He refuted with one stroke of the pen the delusion which so long misled the French, deceived the members of

the Convention, and destroyed Napoleon. In a word, he foresaw Pitt and discerned the formidable character of the twenty-three years' war, when he pronounced that judgment which, inferred from facts and confirmed by history, deserves to be compared with the soundest scientific theories. "If any foreign power threatened the state and put the national fortune or glory in jeopardy, for the time being smaller interests would yield to greater, and all would unite to support the executive power. . . . This nation would be passionately enamoured of its liberty, because this liberty would be real; and it might happen that the people would sacrifice in its defence property, ease, and personal interests; that they would load themselves with the heaviest taxes, such as the most absolute monarch would not dare to impose on his subjects. . . . They would have undoubted credit, because they would borrow of themselves and pay themselves. They might undertake what was beyond their natural resources and utilize against their enemies an immense fictitious wealth which their credit and the nature of their government would render real."

We should like to pause before this far-reaching perspective; but we should still have but a partial conception of Montesquieu's

views on governments and on the laws resulting from the nature and essential principle of constitutions. He also examines these laws in their relations to crimes and their penalties, and to the raising of taxes and government revenues. We have just now seen by what intimate bonds this question of the national finances is connected with the political liberty of the citizens. Montesquieu's definition of taxes has become classical. "Each citizen contributes to the revenues of the state a portion of his property in order that his tenure of the rest may be more secure." He demonstrates the advantages of indirect taxation, and appears to be partial to a progressive tax. This partiality is perhaps explained by his illusions with regard to the ancient republics, but more especially by the example of the poll-tax as it was applied in his time to the privileged orders. It was graduated not according to fortune, but according to the tax-payer's dignity and rank in the state. Montesquieu condemns the excise, and protests vigorously against the salt-tax and extortionate imposts. "All is lost," said he, "when the lucrative trade of the farmer of the revenue succeeds by its wealth in becoming an honorable profession."

His studies on the criminal laws are justly

reckoned among his clearest titles to the gratitude of humanity. He has nowhere displayed more force of thought or more refinement of style than in the chapter on the efficacy of penalties. It is one of those in which there are so many evidences of his kinship with Montaigne: "We must not proceed at once to extreme measures in controlling men; we should husband the means that Nature gives us for their guidance. If we examine the cause of all defiance of law, we shall see that it is to be found in the failure to punish crime, not in the moderation of the penalty."

It is a stroke of purely eighteenth-century wit to comment on this maxim in the following chapter, — a chapter crammed with allusions and insinuations, — under the unexpected title, "Inefficacy of Japanese Laws." "Excessive penalties may corrupt despotism itself." A wise legislator should seek "to win over men's minds by a just balance of penalties and rewards; by philosophical, moral, and religious maxims . . . by the proper application of the rules of honor; by the penalty of disgrace." Really, some one will say, this is our fathers' philosophic idyll, and their sentimentality! Nevertheless, the positive science of our day has discovered no more efficacious method of reclaiming criminals; and we saw

at the end of the last century, after the Terror and the Directory, what excessive measures of repression lead to. Montesquieu had foretold the result: "A vice engendered by this severity remains among the people; their minds are corrupted, and they become accustomed to despotism."

Every one knows that Montesquieu had the honor of contributing to the abolition of torture. The peremptory arguments he brings forward against confiscations have been less frequently noticed. It took courage to bring them forward in his day. Confiscation was quite the regular thing in the criminal courts. It was suppressed in 1790, only to be again legalized some time after, and to be pushed to an excess beyond the worst of its kind in the unhappiest years of the Old Régime. As to the *lettres de cachet*, Montesquieu condemns them indirectly by praising the *habeas corpus*.

He lays down the true principles of the liberty to think and to write: "The laws undertake to punish only overt acts. . . . Punishment is not intended for words, but for a deed done in which words may be employed. Words become criminal only when they prepare for, accompany, or follow a criminal action." The Old Régime did not recognize this freedom of speech; it was loudly proclaimed

by the Revolution, and shamefully violated. Montesquieu was treating of the abuses of monarchical legislation only, but he condemned beforehand the abuses of revolutionary legislation when he said: "Nothing renders the charge of treason more arbitrary than when indiscreet words become the foundation for it. . . . It is then a crying abuse to give the name of treason to an action which is not treason." He does not admit that this term applies either to intrigues against ministers, as under Richelieu; or to spurious coinage, as under Valentinian, Theodosius, Arcadius, in cases which he cites; or to the forgery of royal papers, which was declared treason by a decree of 1720. This last case Montesquieu does not cite, but it was remembered in the time of the *assignats*.

The worst abuse is to extend the name of treason to sacrilege and heresy. This was common law at the time when Montesquieu wrote. The cases of La Barre and of Calas have made so much noise that no one is ignorant of them. The decree of 1724, confirming and comprising the most implacable measures of Louis XIV. against the reformed believers, was in full force. A more cruel law cannot be imagined; that against Roman Catholics in England was not more so. Heretics were still burned at the stake in Portugal and Spain.

"The trouble," says Montesquieu, "has come from this idea that the Deity must be avenged." Simple sacrilege, a merely religious offence, can be punished only by expulsion from the temple and exclusion from the society of the faithful. As to sacrilege which causes a disturbance in religious services, it is a crime like that of disturbing the peace, and must be classed with such crimes. In other words, the civil law does not recognize sacrilege, and cannot repress it.

Montesquieu does not dwell long upon the repression of heresy, but condemns this repression in a few lines of haughty raillery, by withering comparisons. "Important maxim: the prosecution of magic and heresy must be conducted with great circumspection." Moreover, of what use are persecutions and punishments? "Men who believe in sure rewards in the other world will escape the legislator; they will have too much contempt for death." With this conviction he addresses a "Very humble remonstrance to the inquisitors of Spain and Portugal," in which the pathos of the thought is hidden under a veil of irony. He puts it into the mouth of a Jew, and, if taken literally, it is concerned with Israelites alone; but Montesquieu has his mind on France. He makes an indirect appeal to the

persecutors of reformed believers when, in the following chapter, he pretends to explain "Why the Christian religion is so odious in Japan." "The Law of Japan punished severely the least disobedience. When ordered to renounce the Christian religion, not to renounce it was to disobey; this crime was punished, and continued disobedience appeared to merit additional punishments. Punishments, in Japan, are regarded as vengeance for insults offered to the prince." They were so regarded in France, if any were so insolent as to show that they did not believe in the king's religion.

As to toleration, the counsels of "The Spirit of the Laws" make no substantial advance beyond the insinuations of the "Persian Letters." Montesquieu demands the Edict of Nantes, the whole Edict, and nothing but the Edict. He fears religious propagandism, because, in his opinion, it disturbs states and overthrows paternal authority in families. He dreads the retaliation of persecuted sects which begin to persecute as soon as they cease to be oppressed. "This," he concludes, "is the fundamental principle of political law with regard to religion. When it is in our power to receive into the state a new religion or to refuse to receive it, we should not establish it; once established, however, it must be toler-

ated." If it is judged expedient to destroy it, gentle and wily means are the only efficacious ones. "The surest way to attack a religion is by favor, by the comforts of life, by the hope of fortune; not by what makes men vigilant, but by what makes them forgetful; not by what excites indignation, but by what lulls to indifference, when other passions act upon the soul, and when those inspired by religion are chilled. As a general rule in regard to change of religion, invitations are stronger than penalties." Such were the views of Richelieu, who was a great disciple of Macchiavelli in these matters; such the views of politicians like Saint-Simon, who reproached Louis XIV. for having spoiled by his violence and pride the work of patience and suggestion.

Some readers would perhaps be inclined to see in this passage merely irony. I believe that they would be in error, and that Montesquieu says here just what he thinks. A state religion, tempered by the indifference of the majority and the incredulity of the select few, seems to him preferable, at bottom, to the rivalry of different sects. He regards the clergy as an order useful to the state, but to be kept within bounds. Their wealth, which in France seemed to him excessive, ought to be limited by the state. Montesquieu dreads

the clergy's influence in political affairs, about which, he says, they know nothing. For monks he has an inveterate contempt, and does not mince his expression of it. He goes so far as to compare them somewhere to conquerors; that is, in his opinion, to the most harmful of all men.

All things considered, Montesquieu deserves to be praised, and very highly praised, for composing these chapters. In the age in which he lived it was much to treat these burning questions as subjects of public discussion and as articles of politics. It required as much boldness to speak of them with freedom before the Church, as to speak of them with respect before freethinkers. Montesquieu rises at once above Voltaire, who can never in religious matters separate history wholly from polemics, or polemics from ridicule. Montesquieu writes in reference to Bayle, that "it is fallacious reasoning to put together in a great work a long enumeration of the evils religion has produced, without enumerating at the same time the benefits it has accomplished. If I wished to recount all the evils produced by civil laws, monarchy, republican government, I should have frightful things to relate."

These reflections on criminal laws and on toleration are grave and austere. Why need

he, led away by some strange aberration of taste, introduce among these noble essays, in the way of diversion and interlude, the most useless, most mawkish, and most offensive of digressions? It is the chapter entitled "Violation of Modesty in the Repression of Crimes;" one might add, — "and in 'The Spirit of the Laws.'"

CHAPTER VII.

"THE SPIRIT OF THE LAWS," — CLIMATE, CIVIL LAWS, INTERNATIONAL LAW, ECONOMIC LAWS; THE THEORY OF FEUDAL LAWS.

NO part of Montesquieu's work has been more criticised, especially by his contemporaries, than that in which he treats of "the Relations existing between Laws and Climate." "This theory," said Voltaire, "is taken from Chardin, and is none the truer for that." Chardin, moreover, only presented it under the form of a digression in the chapter devoted to the "Palace of the King's Wives." He borrowed it from Galen, who was himself inspired by Hippocrates. The idea was no novelty, and no one could be astonished to see it dealt with by a historian of institutions, except critics living in an age when those who boasted of legislating according to natural laws began by eliminating from their speculations the most natural elements, — air, soil, country, and race. Montesquieu's error is not that he investigated the influence of the

elements, but that he considered only one of them, and that, too, with very inadequate data. His notes on climates, collected at random and arranged very arbitrarily, abounding in doubtful statements, sown with paradoxes and ingenious observations, would have furnished Montaigne with material for an agreeable essay. Montesquieu endeavored to build a system upon them, and the whole scaffolding went down under the weight.

It is a very simple matter to pick up the pieces and determine the cause of the fractures. "The government of a single sovereign is oftenest found in fertile countries, and the government of the many in barren ones;" parliamentary government has been set up in a rich agricultural country, while the sand-pits of northern Germany have to this day remained impenetrable to it. A cold climate, adds Montesquieu, will produce — together with more strength — more self-reliance, more consciousness of superiority, and thus less desire for vengeance; more confidence in security, and thus more freedom, less suspicion, less policy and cunning. Behold the numerous virtues that spring from frost and moisture! It may be that all these virtues have been thus engendered, but a combination of them all is far to seek. The qualities first mentioned —

strength, self-reliance, the spirit of enterprise — go well together, and I recognize them in the Normans, in the Anglo-Saxons, and in the Germans; but the sequel bewilders me, and — to cite only accepted and proverbial truths — explains neither the Norman shrewdness, the perfidy of Albion, nor the German quarrelsomeness.[1] A little farther on we find heat producing among Asiatics the same effects that had to be referred to cold among the Russians. I shall not press the matter further. It is enough to have shown in these indiscretions one side of Montesquieu's character, that in which — to adopt his own theory — we are inclined to suspect the influence of the capricious climate of Gascony.

To tell the truth, Montesquieu cast upon this side of Nature only a curious glance, an unceremonious and stolen glance. He did not see that these different conditions of human society, — climate, country, race, the last very uncertain and obscure in its data, the two former very precarious in their effects and distinguishable only in great bodies and masses of men — are only primary causes, vague and inaccessible. He did not see that from these

[1] *Une querelle d'Allemand* (a German quarrel) is the French idiom for a groundless quarrel, — a quarrel which is all on one side. — TR.

primary causes flow secondary causes producing by the cumulative force of their effects the real and vital elements of social phenomena; namely, manners, passions, prejudices, instincts, — in a word, the national character of the individual and of the people. Montesquieu was not to be expected to know a science which has yet to formulate its methods, to arrange its collections, and to define its boundaries; but he discerned its principal object when he wrote, "The different needs of different climates have formed different ways of living, and these different ways of living have formed divers kinds of laws." This view was sufficient to throw light on his pathway, and among our most learned modern anthropologists there is not one of whom it can be said that he has done more than Montesquieu for our knowledge of man in his relation to society.

He considers civil laws "in the relations they should have with the order of things on which they are based." These chapters present a great picture of the efforts of men to organize human society, and would merit the title of an "Essay on the Manners and Spirit of Nations" much better than Voltaire's work so entitled. They both made the same excursion through the history of mankind; but Voltaire,

as has been very well said, prepares a compendious chart of it, while Montesquieu composes a rational account of it. He sees the undertow of currents of which Voltaire observes merely the surface. Voltaire does not seek the necessary relations of things, but likes to point out everywhere the work of chance; and in his eagerness to exile God from history, he banishes logic, consistency, conscience, and human judgment. To these Montesquieu allows their proper place.

Montesquieu gives excellent counsel with regard to the manner of drawing up and wording the laws. In his chapters on the laws controlling private life may be found his views on divorce, of which he was a partisan; on bodily constraint, which he would abolish in civil causes; on registration of births, marriages, and deaths, of which he was one of the promoters; and on expropriation,[1] the principles of which he laid down. We should honor him greatly for his ideas on slavery. To point out its abuses and dangers, especially in a democracy, was no useless task. Slavery was a recognized institution in the republic of the

[1] We have retained the French word *expropriation*, which means either the forcible seizure of the goods of a debtor, or the seizure of property for public purposes in consideration of an indemnity. — Tr.

United States, which did not get rid of it until after nearly a century's experience and a struggle wherein the nation almost foundered. It took a revolution to suppress slavery in the French colonies. It required the exhausted condition of governments after the Empire and the great truce of Vienna in 1815, to make official Europe pay any attention to the blacks, or heed the appeal that Montesquieu addressed to it more than half a century before. "Narrow minds exaggerate too much," said he, with his biting irony, "the injustice done to the Africans; for if this injustice were such as they pretend, would it not have entered the minds of Europe's rulers, who make so many useless treaties, to make a general one in favor of mercy and pity?"

Europe's rulers have listened to this humane counsel; but they have despised the wise advice that Montesquieu gave them in his chapters on "International Law." We have still to choose, in this respect, between an ideal law deduced by theorists from the abstractions of the schools, and the practical jurisprudence followed by politicians. Voltaire styled this the "jurisprudence of highwaymen;" and Montesquieu, always more deferential to human nature and more regardful of political decorum, defined it as "a science which teaches

princes to what extent they can violate justice without interfering with their own interests."

"Is it anything else?" asked Voltaire in his dialogue on Hobbes, Grotius, and Montesquieu. "'Is there a law of nations?' 'I am sorry for it,' replies one of the speakers, 'but there is none, except to be continually on one's guard. All kings and ministers are of this opinion; and thus it is that now, in Europe, twelve hundred thousand mercenaries parade every day in time of peace. Let a ruler disband his troops, permit his fortifications to go to ruin, and pass his time in reading Grotius, and you shall see whether, within a year or two, he will not have lost his kingdom.' 'That would be a great injustice.' 'I agree with you.' 'And is there no remedy for it?' 'None, except to put himself in a position to be as unjust as his neighbors. Then ambition is restrained by ambition; then dogs of equal strength show their teeth, and tear each other only when they have some prey to dispute.'" Such was the wisdom of Europe in the middle of the eighteenth century.

And this is still the last word of the wisdom of the nineteenth century, after a hundred and fifty years of further experience. Millions of men have again been sacrificed without one step of progress. The empirics in charge of

nations have got no farther in their political hygiene than the frightful blood-letting of Broussais's time. "Each monarch," wrote Montesquieu, "keeps on foot all the armies he could have if his people were in danger of extermination, and calls by the name of peace this constant straining of all against all. And thus Europe is so ruined that private persons, whose affairs were as badly involved as those of the three richest nations of this part of the world, would have nothing to live on. We are poor, in spite of the wealth and commerce of the whole world; and soon, by dint of having soldiers, we shall have nothing but soldiers, and shall become like the Tartars."

Montesquieu cannot be resigned to this; he seeks a remedy, and seeks it in the very nature of the complaint. He does not separate himself from the actual world. He enters it, mingles with it, sees it, not as the world ought to be, but as it is and as it acts. "In Europe the nations are well matched with one another, those which are adjacent having almost equal courage. This is the chief cause . . . of the freedom of Europe." Respect for the law here results, not in harmony of views, but in opposition of powers. "Rulers who cannot live together under civil laws are not free; they are governed by force; they must con-

tinually exert force or submit to force. . . . A ruler in this position cannot complain of a treaty which has been thrust upon him by violence. This would be to complain of his natural condition." Force even decides the reputation of nations: "Victory alone decreed that we must say *Punic* faith instead of *Roman* faith." War is the basis of these barbarous relations: wars offensive and defensive, wars of conquest, wars to anticipate an attack that is feared, and to avoid a conquest that seems threatened. Everything in this so-called law of nations may be reduced to self-interest.

Self-interest is its only sanction. War is not a right, it is an act of violence; conquest of itself creates no right. "It belongs to the conqueror to repair a part of the evil he has done. I define the right of conquest thus: a necessary, legitimate, and unfortunate right, which always leaves an immense debt to humanity unpaid." It is only on these conditions that conquest is justified, and that the conqueror acquires any rights over the conquered people. The conqueror gains a people by governing it well. Consequently there is a natural limit to conquest, namely, power of assimilation. That only should be conquered which can be kept and identified with the realm. States have their natural proportions; and the limits

of the territory they can well govern cannot be overstepped without exhausting their strength and destroying their vital principle.

All the rules of international law may be reduced to this maxim and summed up in this precept: "That different nations ought in peace to do each other the most good, and in war the least harm, possible without detriment to their own highest interests." It is enough to compare these observations of Montesquieu with the practice of governments, to show how far politicians still are from conformity with humanity, with good sense, and with experience.

Montesquieu hardly did more than point out some aspects of this great subject, which he looked at from so high a standpoint; on the other hand he delighted in economic questions, in which conjecture has so large a share, and in which facts, incompletely observed, and, as it were, heaped up around him, dim his sight and too often mislead him. His greatest merit here is his priority, — his attempt, before Adam Smith, to give a scientific form to the problems of political economy.

The most important and durable part of this division of "The Spirit of the Laws" is the history of commerce which Montesquieu has here inserted. It is broadly planned, and flows

on in a noble stream. It is a study of progress in the relations between the communities of men, and forms a grand though detached chapter in the history of civilization. Here we see commerce gradually advancing from "vexation and despair" to reach security. But at the cost of what bloody and terrible experiences, like the persecution of the Jews and that of the Huguenots in France, did people arrive at conclusions confirming by the lessons of self-interest all the lessons of policy! "It is discovered by experience that nothing gives prosperity except good government."

Montesquieu's theory of trade is based upon a very subtle distinction between "trade in luxuries" designed to furnish to nations what flatters their pride, — the commerce of great monarchical states; and "thrifty trade," subsisting on what is paid for transportation and commission, — the commerce of republics and countries of small extent. Although Montesquieu discerns England's commercial greatness, he deems trade essentially the business of an inferior government and of inferior men. The Romans disdained it, and the French monarchy had nobler cares. Doubtless wealth is an important matter, and the wealth of the state tends to change its character, owing to the more extensive use of transferable securi-

ties. Montesquieu is quite aware of this, and says, moreover, that "the nation which possesses the most of these transferable securities is the richest." But he does not covet this superiority for his native land. Honor and wealth, that is, honor and trade, cannot subsist together, — I mean that feudal honor which is the vital principle of monarchical government.

As to the other kind, the popular or middle-class honor, Montesquieu thinks it the life and backbone of trade. If his opinions on commerce show the prejudices of the aristocracy of the robe, his decisions show us the good judge. His reflections on the dangers of speculation and gambling as substitutes for laborious business, and on the necessity for maintaining in all its rigor the legislation with regard to bankrupts, deserve to be given all the more consideration, because the facts have most forcibly justified his anticipations. He has also very correct views touching free rates of interest and touching exchange.

More clearly than any other writer Montesquieu sets forth in a few lines the problem of tariffs and of commercial treaties. The hitherto insoluble question of protection and free-trade is reduced to its real terms, and Montesquieu indicates the way in which it is best to seek its solution: "Where there is com-

merce there are customs. The object of commerce is the exportation and importation of goods, for the advantage of the state; and the object of customs is a certain duty on the said exportation and importation, also for the advantage of the state. The state must then maintain an even balance between its customs and its commerce, and not allow these two things to conflict."

I cite in connection with these maxims the example which illustrates them: "A merely accidental tribute, not depending on the industry of the nation, on the number of its inhabitants, or on the cultivation of its soil, is a poor kind of wealth. The King of Spain, though he receives vast sums from his custom-house at Cadiz, is only in this respect a single very wealthy person in a very poor nation. . . . If some provinces of Castile yielded him a sum equal to his receipts from the custom-house at Cadiz, his power would be much greater: his riches would be merely the result of the wealth of his country; these provinces would animate all the rest, and they would all be in better condition to sustain their respective burdens. Instead of a great treasure, he would have a great people."

Montesquieu discerned all the import of commercial relations between nations: "Two

nations trading together become mutually dependent." Well-managed relations and well-arranged commercial treaties bind nations together in the most salutary way; but the contrary is not less true, as experience has very frequently proved. Montesquieu, then, seems to have generalized too hastily when he affirmed that "the natural effect of commerce is a tendency toward peace." Commerce has need of peace, but engenders a spirit of very rude, jealous, and suspicious competition, impelling to conflicts as bitter as those caused by political rivalries, and to tariff struggles as implacable as wars concerning boundaries.

If Montesquieu could have known the constitution of the United States, he would have improved his chapters on democracy in more than one particular; and if he had observed American manners, he would have modified several of his opinions about commerce. I do not mean that he had no presentiment of the future awaiting great industrial nations. He pointed out the principal difficulties such nations experience in sustaining their public morals; they must contend against the effects of the very labor by which they live. "In countries where men are affected only by the commercial spirit, they make a traffic of all human actions and of all moral virtues; the

most trifling things, things demanded by mere humanity, are done or given for money. The commercial spirit produces in men a certain exacting sense of justice, opposed on the one hand to extortion, and on the other to those moral virtues which prevent us from always insisting inflexibly upon our own interests, and which allow us to sacrifice them to the interests of others." As a curiosity, and to finish up this subject, let us note this reflection from the close of the chapter on "Grecian Commerce": "How much prosperity Greece derived even from the games to which she drew, so to speak, the whole world!" Montesquieu, the inventor of universal expositions! — what an interesting note to add to the story of Pascal's omnibus![1]

By isolating Montesquieu's grand and generous views on the duties of society toward its members, we might discover in him a precursor of the modern state socialism. "A man is not poor because he has nothing, but because he does not work," he says at the beginning of his chapter on "Hospitals and Workhouses;" and he goes on: "The state owes to

[1] More than a century and a half before the final introduction of the omnibus, this great scientific thinker and religious recluse seems to have been for a time the manager of an omnibus line at Paris. — TR.

all its citizens an assured subsistence, — food, suitable clothing, and a way of living that is not opposed to health." The state is bound to avert industrial crises, "in order to prevent both suffering and revolt." The method is to open manual training-schools, to facilitate the practice of the manual arts, and to insure the workmen against attendant risks. In commercial countries, "where many people possess nothing but their trade, the state is often obliged to provide for the necessities of the aged, the sick, and the orphans. A well-organized government will derive the subsistence of such persons from the funds of the trades themselves; it will assign to skilled workmen the labors they are capable of, and by teaching the rest to labor, will straightway create another employment." Yet let us not be deceived: Montesquieu has in view neither national workshops nor the right of employment; and what he sets up as a principle is simply the practice of the monarchs of the Old Régime. Compare with this chapter on "Hospitals and Workhouses," Tocqueville's chapter on "Methods of Administration under the Old Régime," and Montesquieu's meaning will be plain.

The monarchy he thinks of is always the paternal monarchy; his opinions on the duties

of the government to the subjects of the prince are a part of the same conception as his hierarchy of privileged orders and his system of prerogatives. All these things are logical consequences of the essential principle of monarchy and the feudal character of its origin. A history of feudal institutions, that is to say, of the historic source of monarchy and privileged classes, thus formed the necessary complement to Montesquieu's work, having many bonds of connection — doubtless intricate sometimes, but yet perfectly well-defined — with all parts of "The Spirit of the Laws."

Though very much opposed in this respect, as in many others, to his contemporaries, — and, let us add, very much above them, — Montesquieu was interested in mediæval history. He sought the law of his country's destinies in the obscure beginnings of France. The nobleman's pride was piqued, as well as the thinker's curiosity. Both attracted him toward those mysterious forests whence issued along with the Germans, his alleged ancestors, the elements of political liberty. He set out in quest of discoveries. His toil was severe, his investigations slow and painful. "I seem," he remarked, "all at sea, and in a shoreless sea. All these cold, dry, tasteless, and difficult writings must be read, must be devoured. . . .

The feudal law presents a noble spectacle. It is like an ancient oak-tree raising high its far-seen tower of foliage; approaching, we behold the trunk but not the roots; to find these we must delve deep in the earth."

A very keen controversy, which meanwhile broke out, confirmed Montesquieu's passion for this undertaking. In 1727, five years after the death of their author, appeared Count Boulainvilliers' "Historical Memoirs on the Ancient Governments of France." His thesis was the Germanic conquest and liberty by means of the States-General. The conquerors who had subjected Gaul were, according to Boulainvilliers, invested by the very fact of conquest with the right and duty of restraining the royal power. The Abbé Dubos, life secretary of the French Academy, sustained just the opposite thesis in his "Critical History of the Establishment of the French Monarchy in Gaul," which appeared in 1734. In his opinion the Germans, besides being few in number, had entered Gaul not as conquerors, but as allies of the Romans; and their settlement in the country brought in no new institutions. The chiefs of these bands received from the Romans the control of the territories they occupied, and governed them according to Roman usages. The revolution which created

France took place only very slowly, and consisted in the transformation of governors into lords. It was the rise of feudalism that established in Gaul, for the benefit of the lords, the system of rule by right of conquest.

Montesquieu prided himself on his German descent, but his whole spirit was Roman; and he appeared destined to harmonize these two conflicting theories. "Count Boulainvilliers and the Abbé Dubos," said he, "have each framed a system; the one seems to conspire against the Third Estate, and the other against the nobility." He endeavored to occupy middle ground. His prejudice inclined him toward the side of Boulainvilliers, whom he treated as a gentleman, and alienated him from Dubos, whom he regarded — in spite of their being brother academicians — as an upstart and a library pedant. He criticised Boulainvilliers with respect; he never agreed with Dubos except with an air of disdain, and disputed his propositions only by ridicule.

He took a turn around his subject, as it were, before entering upon it. In Book XVIII., while dealing with the laws in their relations to the nature of the soil, he treats of the Frankish kings, of their coming of age, of their long hair, and of the national assemblies during their reigns. He takes up the subject

again in Book XXVIII., "On the Origin and Changes of the Civil Laws among the French." He defines the subject broadly, touches upon one side of it, and all at once leaves it. "I was about to have inserted a great work in another great work. I am like the antiquary who left his country, went to Egypt, cast one glance at the pyramids, and — went home." But the pyramids had an irresistible attraction for him; he returned to them, and this time wished to penetrate their secret. After finishing Books XXX. and XXXI. in 1748, he wrote: "I think I have made discoveries in the most obscure of subjects, though it is after all a magnificent subject."

After treating of the origin of feudal laws, taking Cæsar and Tacitus as his authorities, and the codes of the barbarians as their commentary, he joins battle with Dubos. He endeavors to prove, in opposition to Dubos, that the lands occupied by the barbarian chiefs paid no tribute. This is the point on which the whole debate hinges. "In these pages, in which he affirms rather than discusses, and ridicules rather than refutes," says M. Vuitry, who is one of the most prudent and judicious arbitrators of this great historical dispute, "Montesquieu does not destroy the proofs collected by Dubos, at least those

touching the maintenance of the Roman tributes imposed upon the Gallo-Romans under the early Frankish kings. But his reasoning is more conclusive and peremptory as regards the Franks, and we cannot fail to acknowledge that, if the kings often tried to subject these latter to tribute, they did not succeed in the attempt."

Montesquieu studies in succession the origins of feudal dues, of vassalage, and of fiefs; the question of the military service of freemen; the jurisdiction of the lords; the transformation of benefices into fiefs; and the revolution that rendered fiefs hereditary. This revolution ushered in feudal government, and Montesquieu connects it with that other revolution changing the reigning dynasty, and uniting with a great fief the royalty which, in the dispersion of power, had lost its domain. From these two contemporaneous and connected events he deduces as a first consequence the right of primogeniture. Before this, the fiefs had been held at the pleasure of the crown which shared them. Thenceforward the crown became hereditary, as the fiefs had become. Then followed the transfer of the fiefs to strangers, and the peculiar rights of suzerainty, — the right of *lods et ventes*,[1] the right of re-

[1] The right of the lord to a payment from any one purchasing an estate within his manor. — Tr.

purchase, the right of *garde-noble*,[1] the laws of homage, and that principle of old French law that inherited real estate does not retrocede. "I end my treatment of fiefs," Montesquieu then writes, "where most writers begin it." He abruptly suspends his task on this page; and with this fine piece of juridical exposition, he closes these three books in which, according to the judgment of a master, "he has thrown out his views on the origin of our social institutions with so much power, but in so capricious and disorderly a manner."

Since Montesquieu's time the study of the Middle Ages, then still a subject of much groping and conjecture, has brought forth a science which now occupies an important place in our historical schools. The deeper studies that have been undertaken, based upon the investigation of original sources, have renewed and extended in a very remarkable way the dissensions that divided the learned Frenchmen contemporary with Montesquieu. These controversies are still carried on with great vigor among us; and if the lists appear to be closed, the tilting is not yet over. Montesquieu, although seamed with many scars and withdrawn

[1] The right of a surviving noble parent to enjoy the inheritance of the children until they should reach a certain age. — Tr.

from the contest, still makes a great figure. He marked off the ground, and gave the first impulse to investigation. "History," said he, "must be explained by the laws, and the laws by history." He really founded a science, and left a method for his followers.

These two great episodes on commerce and feudal laws do not, as readily as the preceding chapters, admit of literary by-play and ornamental flourishes. They form, as it were, long galleries very well lighted, but rather cold and bare. To adorn them, Montesquieu could do no more than arrange busts and statues at intervals; and this is what he has done. There are two of these statues that stand higher than all the rest, both by reason of the greatness of the subjects and the beauty of the execution,—Alexander and Charlemagne, conquerors and civilizers. In the likeness of these heroes Montesquieu personifies whatever his historic genius has shown him that is great and noble in the art of government.

"*Italiam! Italiam!*" he exclaims as he reaches the goal he had set to his journey. He does not conclude, he does not shut the book, but leaves it, as it were, open toward the future.

CHAPTER VIII.

CRITICISM AND DEFENCE OF "THE SPIRIT OF THE LAWS."—MONTESQUIEU'S LAST YEARS. —HIS INFLUENCE IN EUROPE UNDER THE OLD RÉGIME.—HIS VIEWS ON THE FRENCH GOVERNMENT.

"THE Spirit of the Laws" was printed at Geneva, where it appeared in the month of November, 1748, in two quarto volumes. The author's name was not given, but everybody supplied the name of Montesquieu. The book found its way into the hands of all respectable people in France, although the censors had not authorized its circulation. Its success was very decided, but critics were not lacking. Montesquieu was really too great a man not to be envied. He shocked too many prejudices and exploded too many accepted notions, not to arouse protests. He gave a special shock to the prejudice of pure reason, and exploded the arbitrary perfection of those reformers who would make a clean sweep and begin anew. This class of speculators has always rebelled against experience. They con-

demned "The Spirit of the Laws" without a hearing, and scouted the historic method without attempting to apply it.

Montesquieu had one friend in this school. This was Helvetius, who composed a treatise on "Mind"[1] in general, but did not understand the mind of Montesquieu. What he lacked in profundity he made up in assurance; and he summed up in a few lines all the objections of abstract political theorists against "The Spirit of the Laws": "You often ascribe to the world a reasonableness and a wisdom which is really only your own. . . . A writer desiring to be useful to men ought to be too busy with maxims true for the future, to lend his sanction to those which endanger the present order of things. . . . I know but two classes of governments, the good and the bad; and the good are yet to be formed." Helvetius thought that Montesquieu made politics too complicated; that his remedies acted too slowly and required too much patience on the part of the physician, too much virtue on the part of the patient. Why such minute directions as to diet and regimen? A good pre-

[1] "De l'esprit." At the close of the paragraph there is an allusion to the word *esprit* (spirit, mind, wit) occurring in the titles of the two books, — that by Helvetius and that by Montesquieu. — TR.

scription was so easy to find, and a good panacea so easy to take! "My intention," said Montesquieu of some one who criticised him in this fashion, "was to do my work, and not his." Helvetius, who dreaded the effect of "The Spirit of the Laws" on his friend's reputation, would have gained by exchanging with him.

Montesquieu had shown that he despised tax-farming, publicans, and revenue contractors of every kind; and one of them, Claude Dupin by name, wished to be avenged, and compiled in 1749 certain "Reflections on Some Parts of a Book entitled 'The Spirit of the Laws.'" This title was foolish, and the book was no better. "If you aspire to a position," said Dupin, "you will do well to take another road; this will not lead to one." The position Montesquieu aspired to was one that the Dupins do not control. "Behold me," he wrote to a friend, "cited before a tax-gatherer's tribunal." Dupin dared not carry the matter through, and contented himself with seeing his two volumes in secret circulation. Though there were no reflections in this book, there were at least just remarks. Montesquieu was not free from inadvertences and oversights. Dupin pointed out these mistakes, and Voltaire took advantage of this when he aimed

at Montesquieu the composition called "The A B C," in 1768, and his "Commentary on the Spirit of the Laws," in 1777.

Voltaire was preparing his "Essay on Manners" when "The Spirit of the Laws" appeared, and it seems that this masterpiece annoyed him. He did not like Montesquieu; and Montesquieu showed little taste for Voltaire, seeing in him scarcely more than a literary blackguard. "It would be a disgrace to the Academy if Voltaire were a member: and it will one day be his disgrace that he was not one. . . . He has too much wit to understand me," added Montesquieu. Voltaire only half listened and half understood. He was arrested by trifles, and hardly perceived the main drift. When Montesquieu was attacked, Voltaire praised him; and when Montesquieu was praised, Voltaire attacked him, always galling even when he appeared to caress, and afterward covering the wound with little flowers. Yet he uttered this fine saying, the antidote to many epigrams: "The human race had lost its titles; M. de Montesquieu found them again and restored them."

What Voltaire enjoyed most about "The Spirit of the Laws" was the opposition it aroused among the clergy. The Jesuits condemned it with civil phrases in the "Trévoux

Journal;" the Jansenists attacked it with acrimony in the "Ecclesiastical News" for the months of April and October, 1749. Both parties took Montesquieu to task concerning Spinozism, climates, the Stoics, suicide, Montezuma, polygamy, divorce, and Julian the Apostate. But these were only preliminary skirmishes. They directed all the strength of their argument against the chapter on religion, which was in their view the weak point; and against the one on toleration, in which Montesquieu had laid himself open to attack. Montesquieu, said they, considers all religions as matters of policy; he does not distinguish the true religion, which has all rights, from the false religions, which have none. They branded him as an infidel, and convicted him of contradictory statements. "The parentheses that the author inserts to inform us that he is a Christian give slight assurance of his catholicism," wrote the editor of the "News." "The author would laugh at our simplicity if we should take him for what he is not." Montesquieu was inclined to tolerate the Huguenots in France, and to prohibit the missions to China. The "Trévoux Journal" and the "Ecclesiastical News" advocated precisely the opposite policy. They therefore concluded that "'The Spirit of the Laws' gave up the case

against the ancient and modern persecutors of the Christian religion." The Jansenist review wound up with a hearty denunciation, and an appeal to the secular arm against a book "which teaches men to regard the incentives of virtue as useless in monarchies."

Montesquieu, sensitive to such insinuations, published a "Defence of the Spirit of the Laws," which appeared in April, 1750. The piece is brilliant, and full of fine irony. Montesquieu does justice to his thought, garbled by fragmentary citations. He disproves most of the detailed criticisms, but he does not dispose of the fundamental points. To establish his orthodoxy and make his submission, he would have had to disavow the essential principle of his "Spirit of the Laws," and burn half his work. He did not submit, and ended as he should have begun, by despising such criticism. "To condemn the book would be nothing," he wrote to a friend; "I should have to destroy it." The Sorbonne was not equal to the emergency. It took up the matter, but the doctors could not agree on the main counts in the indictment. The work was denounced to the assembly of the clergy, who gave but little heed to the accusers. The congregation of the Sacred College put the book upon their *index;* but little was said of this,

and no one minded it. Malesherbes, meanwhile, gained control of the censorship, and removed the injunction excluding "The Spirit of the Laws" from France. This masterpiece of French genius thus received, toward the close of 1750, its naturalization papers. Twenty-two editions were printed in less than two years, and it was translated into all languages.

The Italians were enthusiastic over it; the English paid it signal homage; the King of Sardinia had his son read it; Frederick the Great, who had annotated the "Considerations on the Romans," did not fail to make some reservations with regard to "The Spirit of the Laws." "M. de Maupertuis has informed me," wrote Montesquieu, "that he [Frederick] had found some passages he could not assent to. I answered that I would wager confidently that I could put my finger on the passages." But Frederick, who appropriated what suited him from every source, was careful not to neglect Montesquieu's counsels; and the history of his government of Silesia may serve as a commentary on the wise maxims of "The Spirit of the Laws" with regard to conquests.

Montesquieu lived to have a foretaste of his great fame. In his old age he enjoyed the admiration of all Europe. He wrote little

more. "Lysimachus," a fine Stoic fragment; the charming tale of "Arsaces and Ismene;" and an "Essay on Taste," intended for the "Encyclopædia," are all that are left of his later years. He divided his time between Paris and La Brède, enjoying his estate, but enjoying still more the society of his friends. He became blind, and endured this great trial with serenity. "It seems to me," said he, "that the little light left me is but the dawning of the day when my eyes shall close forever." It was one of the aims of his life and his heart's desire to die, as he expressed it, "with hope on his side." He had a stoical soul, but closed his life as a submissive and reverent Christian. He expired at Paris on the 10th of February, 1755, in his sixty-seventh year.

His fame was not overestimated. It has only grown stronger and greater with time. He thought much about the judgment of posterity and the future of his book. "My work," said he, "will be more approved than read." He might have added, — oftener read than understood, and oftener understood than applied. Montesquieu's Hippocratic hygiene, despised by theorists, exasperated mere empirics. Moderation was the key-note of his advice to princes, and all the governments of

Europe were on the verge of decline through the abuse of power. In practice, the drift of the time was toward enlightened despotism; in doctrine, toward natural rights. Thinkers and politicians accepted in Montesquieu what suited their turn, but his method escaped them. They may be seen invoking his authority in details, while despising his spirit; and putting into practice reforms that he advocated, while violating the rules he prescribed.

D'Alembert wrote a "Eulogy" of Montesquieu, and appended to it an "Analysis of the Spirit of the Laws," in which he connects the book and its author with the Encyclopedists. Beccaria, whose book was inspired by the chapters on the criminal laws, is a mere jurist, who makes deductions but no observations. Filangieri imitates Montesquieu and endeavors to improve upon him: "Montesquieu is absorbed in giving reasons for what has been done; and I try to deduce rules for what ought to be done." Bielfeld derives from Montesquieu all that is essential in his "Political Institutions," but floods the work with natural rights, and tries by this mixture to harmonize "The Spirit of the Laws" with the system of Wolf.

Princes as well as philosophers found a use for Montesquieu. "His work is my manual,"

said Catherine the Great. She made extracts from it, and presented them for the consideration of her pompous commission on the Russian code. But if she lavished on her subjects showy maxims on the equality and liberty of mankind, she was practically imbued with the rule of the master "that an extensive empire naturally implies unlimited power in the ruler." From this she concluded that the best way to sustain the Russian government was to strengthen its main-stay, namely, the autocracy.

The framers of the Prussian Code of 1792 did not escape the influence of "The Spirit of the Laws." Their work as a whole breathes nothing but enlightened despotism; but the administrative councils, controlling and restraining one another, the life-tenure of the state officers, assuring their independence, the considerable part taken by the nobles in the administration of local affairs, the rigorous maintenance of the hierarchy and of castes, the exclusion of the nobility from commercial pursuits, — all recall Montesquieu's proposed measures for maintaining the vital principle of monarchy.

In France, Montesquieu was always considered seditious by pedants and pious people. They accused him of unsettling the altar and

the throne. Crevier undertook to demonstrate this with illustrative citations, and published in 1764 a volume entitled "Observations on the Book called 'The Spirit of the Laws.'" Crevier knew ancient history, and he had little trouble in detecting mistakes, here and there, in Montesquieu; but his mind being naturally heavy, he had still less trouble in demonstrating his own dulness. He took up the argument of the "Ecclesiastical News," and seeing in Montesquieu only a literary man desirous of an unwholesome notoriety, he found nothing in "The Spirit of the Laws" but the spirit of vanity, paradox, and faction. "In order to love mankind, he neglects to love his country as he should. . . . Englishmen may be flattered by reading this work, but good Frenchmen can only be mortified by its perusal."

Crevier was right in thus speaking of the English. They showed they were flattered by the book, and what was better they profited by it. Till then they had made practical use of their constitution without analyzing it. Montesquieu gave them a reason for their laws. He gained disciples among them, one of whom was Blackstone; and all commentators on the English constitution depend on Blackstone. Among these disciples we must include De

Lolme, of Geneva, whose work appeared in 1771, and gave a detailed description of the English constitution, of which Montesquieu had presented only the principles and general rules.

Long before Europeans thought of applying these maxims to the ancient monarchical institutions of the Continent, Americans, by a bolder experiment, applied them to a democracy. Montesquieu had foreseen that England's American colonies would separate from the mother country, and had pointed to a federal constitution as the only device to harmonize those elements which antiquity had never exhibited in combination,—extensive territory, democracy, and a republican form of government. Washington was acquainted with "The Spirit of the Laws;" and the influence of this book on the framers of the Constitution of the United States cannot be denied. The Americans profited by Montesquieu's views on the distribution of power; they established democracy within the narrower limits of the States of the Union, and made the federal government a republic. They were able to organize this democracy and this republic because of the simplicity of their manners. They inherited from their Puritan ancestors the intense religious feeling, the spirit of subordination, the

self-denial, which were, according to Montesquieu, the essential republican virtues. Though modifying the provisions of the laws which Montesquieu advised republics to adopt, they justified his underlying thought and completed his work.

The traditions and the manners that gave the Americans their strength in the Revolution did not exist in France. Everything considered, the country was nearer to the Rome of Cæsar than to the England of Cromwell. Montesquieu never thought of France as either a democracy or a republic. It was in the old French laws that he found the spirit of monarchy. He never thought of importing English institutions into his country,—this would have been contrary to his system of climates; his intention was merely to revive the essential principles of the "fundamental laws" of France.

In Montesquieu's ideal French monarchy we should see the king restrained by the privileged and dependent classes; no States-General, but a magistracy, the guardian of the fundamental laws; a nobility forbidden to engage in trade; no great commercial companies, because these would destroy the sacred order of intermediate classes by arraying wealth against political power; a paternal,

enlightened, intelligent government, guiding the French not only generously but judiciously, putting no constraint either upon their manners or their virtues, — above all, never boring them, for that would be unendurable, — and allowing them to do frivolous things seriously and serious things gayly; honor in everything, toleration for believers, glory for noblemen, civil liberty for the people; no distant expeditions and few colonies; no more of those enterprises increasing absolute power only at the expense of our relative strength; in a word, moderation abroad as well as at home, "since France is of exactly the size it ought to be." Good kings and wise ministers are the main dependence of such a government. France has furnished illustrious examples of both: Charlemagne, the central figure in history; Saint Louis, representing "law, justice and magnanimity;" Louis XII., "the best citizen;" Henry IV., "who needs but to be named;" then, Coligny, Turenne, and Catinat; on the other hand, as a contrast and a warning, Richelieu and Louvois the instruments of despotism, and Louis XIV. the despot.

Montesquieu outlined his ideal without perceiving that France as he described it rendered impossible France as he conceived it. He would fain restore vigor to dying institutions.

Their vital principle was corrupted, and he had himself proved that when the principle becomes corrupt the government is near its fall. The crown levelled all and encroached on all. It absorbed all powers, and brought all ranks into the same cringing posture before itself. The nobles were degraded to the position of courtiers; now, "the character of the majority of courtiers is marked by indolent ambition, mean-spirited pride, lust for wealth without labor, antipathy to truth, flattery, treachery, perfidy, neglect of all engagements, contempt for civic duties, dread of virtue in the prince, and hope based upon his weaknesses, — above all, an ingrained habit of sneering at virtue: such, I believe, at all times and places is the shameful brand." Even honor fails to take the place of the missing virtues, for their spurious and servile honor is only another mark of their degradation. "They can be at the same time covered with infamy and with honors." These nobles "consider it an honor to obey a king, but regard it as a supreme disgrace to share their power with the people." Even were they willing, they could not do this. "Their natural ignorance, their inattention, their contempt for civil government," render them incapable of it. The magistracy, discredited by the crown, could not assume the

duties of the nobility. All was crumbling, and the fall of the buttresses announced the speedy ruin of the edifice.

This was readily seen when, under Louis XVI., the attempt was made to govern according to Montesquieu's plan by restoring authority to the courts and influence to the privileged classes. The maxims of "The Spirit of the Laws" were cited against Turgot and his reforms, and the resistance to these reforms finally precipitated the Revolution. This attempt to return to the Old Régime only tended to make monarchy more unpopular and the privileged classes more odious.

Only in respect to foreign policy did Montesquieu's counsels prevail and produce their beneficial effect. The policy of Vergennes is an excellent application of "The Spirit of the Laws" to diplomacy. When we read the state papers that this wise minister addressed to Louis XVI. with reference to the Bavarian succession, we seem to be reading an exposition of this sentence, closing the chapter on War in the book on International Law: "People should not talk of the glory of a prince, or rather say his vainglory; he may have a passion for glory, but has no legitimate right to it. His reputation for power might indeed increase the strength of his government, but his

reputation for justice would strengthen it as much."

This brings us to the French Revolution, which Montesquieu did not foresee though he contributed to pave the way for it, and which he often inspired but never guided.

CHAPTER IX.

MONTESQUIEU AND THE FRENCH REVOLUTION.

AT the close of the last century every enlightened Frenchman had in his library a Montesquieu, a Voltaire, a Rousseau, and a Buffon. The convocation of the States-General invited every Frenchman to give his views on governmental reforms, and each ran to his favorite authors to prime himself with ideas or arguments in favor of the principles he wished to see prevail. Rousseau and Montesquieu were the ones most often consulted; Rousseau gained more disciples, but Montesquieu furnished more quotations; Rousseau expounded only one system, — his own, — while Montesquieu set forth all those which history had garnered. "The Spirit of the Laws" became a sort of digest; all parties drew from it maxims and precedents to support their wishes or their claims.

The intelligent nobles adopted its inner spirit as well as quoted its letter. The votes of these nobles form nothing less than Mon-

tesquieu's memorial to the States-General. In them may be perceived his predilection for monarchical liberty, and his conviction that this liberty could in France be based only upon the prerogatives of the privileged classes. The Third Estate borrowed from him the system of division of power; but it claimed equality and civil liberty as the basis of political liberty, and all Montesquieu's plan of French government was thus annihilated.

In the Revolution the principles of the Third Estate prevailed. After the night of August 4, Montesquieu's monarchy was but a Utopian dream of the emigrated nobility. "Abolish in a monarchy," said he, "the prerogatives of the lords, the clergy, the nobility, and the towns, and you will soon have either the government of the people or of a despot." "The Spirit of the Laws" had propounded this periodically-recurring problem of French government. Citizens who were loyal to the monarchy and yet did not mean to sacrifice liberty sought a compromise, and found it in "The Spirit of the Laws." They appealed to the example of England, and formed Montesquieu's second line of succession in revolutionary times.

Great minds have their posterity; and among their descendants, as in dynasties, the eldest-

born do not always gain the finest fortunes nor promote the glory of the house. There are younger brothers founding families in their turn, whose castles eclipse those of the elder line; and there are portionless brothers who go off to the colonies, discover mines, make rich marriages, and return to restore the abode of their ancestors. Certain children disowned as uncouth or scandalous have sometimes added to the celebrity of a name, if not to its honor. Such was the case with the political progeny of Montesquieu. The elder branch emigrated, and was seen sitting at princes' council-boards, and inspiring Burke's famous "Reflections on the Revolution in France." The whole picture of the old monarchy and its possible reform, traced by the fiery English orator, is drawn from "The Spirit of the Laws." The partisans of two Chambers, the monarchists, as they are called, — Necker, in the administration; Mounier, Lally, Bergasse, Clermont-Tonnerre, and Malouet, in the Assembly; and Mallet du Pan and Rivarol outside, — form the second branch. It soon gave way before the storm; and though it did not die, it required years to recover its sap and send out fresh shoots.

The public mind turned in another direction. It turned to Sieyès, that is, to Montes-

quieu's antipode. "Many others," said this famous theorist, — perhaps having in mind "The Spirit of the Laws," — "have made it their business to put together certain servile notions always in harmony with events. Political science is not the science of what is, but of what ought to be." Yet by entering upon paths which Montesquieu would have shunned, the Revolution did not wholly escape his guidance. It was at this time that his indirect influence was exerted, and that followers appeared upon the stage of his distracted country who were none the less naturally his own because rashly dissenting from a master certain to disown them had he known them by their works.

This defender of monarchy, this restorer of the ancient political rights of the French, was destined to become, in the hands of such disciples, the prophet of a levelling democracy and of a government like the Roman Republic. This strange transformation depended less upon Montesquieu's essential thought than upon the form he gave it and upon the ideas with which his readers interpreted his work. "When I have recalled antiquity, I have sought to catch its spirit." In his efforts to resuscitate the ancients he animated them with his own spirit, and with the spirit of his age.

To tell the truth, he did not call up the ghost of an antiquity forever dead; he brought to light rather a certain form of thought conceived by his own age, and destined for the time being to renovate the politics, the literature, and even the art of France. Montesquieu is not so much the restorer of antiquity as the herald of French ideas derived from the Greek and Latin, — an order of ideas that prevailed from André Chénier to David, from Vergniaud to Napoleon, and produced Robespierre, Saint-Just, and Charlotte Corday. The explanation of what seems on his part the result of a strange divining power, or of an influence even more wonderful, is found in the similar mental state existing in him and among his revolutionary disciples, in spite of the difference in their epochs and their surroundings. This is as much a problem of psychology as of history.

At the time when Montesquieu formed his theory of the republic, the conception was taking root in men's minds and the word "republic" was creeping into use among the people. Classic education fostered this spirit; classic literature popularized its vocabulary. "Will any one dare," wrote d'Argenson in 1747, "to propose to take steps toward a republican form of government? I see no aptitude for it in the people: the nobles, the lords,

the tribunals, accustomed to servitude, have never turned their attention to it; and yet such ideas are coming, and a new habit quickly makes its way among the French." It made its way noiselessly, under ground that had been all levelled and paved in Roman style by the monarchy. A shock occurred, opening an outlet for these hidden streams; they burst forth and flowed freely in the bed which seemed their natural channel.

The same tendency that had prompted Montesquieu to describe the Roman republic and to become its literary citizen, prompted the French revolutionists to restore this republic in France and to become its actual citizens. Their hereditary instincts, guided by Montesquieu's writings, suggested to them what the historic imagination had disclosed to him. They brought to their task the same habits of mind, when impelled to organize democracy, that Montesquieu had brought to the composition of the history of democracy. They derived their conception of it from the same sources; they understood the ancients as Montesquieu understood them; and found them described in his works as suited their desires and their needs. They meant to realize what Montesquieu described. He analyzed the laws that constitute a republic and give it life;

they enacted these laws, and in their opinion the necessary result must be a republic. They took into account none of the conditions that Montesquieu had laid down as essential to his theory, — neither climate, nor morals, nor general tendency. Montesquieu had already blended into one view the republics of all times; but they, taking this ideal legislation from a time twenty centuries distant, imported it into a land that is very different, and into the midst of a civilization of a quite opposite character. Their method was contrary to that of "The Spirit of the Laws," but in harmony with the spirit of the age; and it was in this way that most Frenchmen understood Montesquieu.

They applied to him the interpretative processes it had been their wont to apply to the classics: taking isolated maxims and deducing from them, by the dialectic method, all the consequences that logically flow from them. Out of his general ideas they make abstract and universal ideas, — that is, a mould for their passions to fill. Montesquieu had, as it were, made himself a citizen of each nation in succession in order to cure each people of its worst prejudice, — self-ignorance. His interpreters made of him the citizen of the world and the cosmopolitan legislator. Far from

seeking in his works a cure for their prejudices, they sought only to be confirmed in them; and transferring his work from the relative to the absolute, they made of it a prophetic code of laws for their Utopia.

The whole terrorist revolution has been summed up in a sentence, and this sentence was directly suggested by the republican maxims of "The Spirit of the Laws." In the words of Robespierre, "If in peace the strength of a popular government depends on virtue, in a revolution it depends both on virtue and on terror; for without virtue terror is baneful, and without terror virtue is impotent." In fact, terror was the only lever strong enough so to force the nature of things as to constrain Frenchmen to transform their national character and morals, oblige them to go back from the age of Louis XV. to the age of Lycurgus, and compel Paris to endure what Montesquieu himself has called "Sparta's stupendous boredom." All this required "those terrible magistracies" mentioned in "The Spirit of the Laws," "restoring by force the liberty of the state;" it required the law of the public safety, "which is the highest law," and that doctrine invoked by sophists for all tyrannies that "there are cases when liberty must for the moment be veiled, like the veiled statues of

the gods;" it required those arrests of "suspected citizens, losing their liberty for a time only to preserve it forever;" it required uniform education, equal distribution of property, — that salutary restriction of wealth which corrects the natural iniquity of fortune.

Why did they not consider those chapters on the corruption of principles, on the uselessness of violence against established manners, and the impotence of penalties against the nature of things? That some few perceived their oversight was Montesquieu's revenge, — the revenge of history and humanity. The Girondins understood that the Republic perished because it had despised his teachings. While Saint-Just was parodying his maxims and caricaturing his pictures, Camille Desmoulins discovered in his "Considerations on the Romans" the secret of republican eloquence; and it was through Montesquieu that he borrowed from Tacitus his most eloquent invectives against tyranny. The persecuted and decimated nobles recovered before the guillotine their proud sense of honor, that monarchical virtue which Montesquieu had reproached them with having renounced before the crown. Everything confirmed his dark forebodings as to the decline of political morals in France; everything confirmed the opinion he had

thrown out in passing as to "the speculative sciences that restore men to savagery," and as to the terrible consequences of the despotism which should be established amid the ruins of monarchy: "In this fair quarter of the globe human nature would suffer, at least for a time, the insults now heaped upon it in the three others."

When men tried to return to order, moderation, liberty, they returned to him. There certainly was much more of his spirit in the constitution of the year III. than in that of 1791. Some of his disciples were called to sit in the assemblies: Portalis, Barbé-Marbois, Mathieu-Dumas, Siméon, Camille Jordan; and in the Directory itself was a diplomatist brought up on the counsels of Vergennes, the prudent Barthélemy. Montesquieu's works were reprinted. Pastoret in the Council of the Five Hundred, and Goupil de Préfeln in the Council of the Ancients proposed to vote him the honors of the Panthéon. But the violent party did not give them time, and the political crisis of Fructidor again exiled "The Spirit of the Laws" from the Republic.

The constitution of the year VIII. had nothing in common with liberty as Montesquieu conceived it. If we may believe Stendhal, Bonaparte had done little more than turn the

leaves of this great man's writings; but he held Montesquieu's disciples in high esteem. Though he forbade them to talk politics, he intrusted to their care the courts, the civil government, and civil legislation. The famous council of state that drew up the Civil Code, and whose most industrious member was Portalis, was inspired in substance as well as in form by the precepts of Montesquieu.

But the emperor's policy violated all Montesquieu's maxims, while at the same time it justified all his conclusions. A more complete demonstration of the existence of historical laws could not be found, nor a more decisive proof of those Montesquieu had inferred. He had shown how a country during revolution becomes more formidable abroad than it can ever be at other times; how, in a nation where monarchical customs are concealed under republican laws, war begun as in republics must end as in monarchies. "As soon as the army depends only on the legislative assembly, the government will become military." At a time when there were so few good captains in France that the king had to seek out Marshal Saxe, a great mercenary leader, to bear his sword, Montesquieu penned this remarkable phrase: "France will be ruined by warriors." It was Denmark that had suggested the fol-

lowing thought, so exactly applicable to the France of 1804: "No authority is more absolute than that of the prince who succeeds a republic; for he finds himself in possession of all the power of a people that had been unable to restrain its own power."

The chapter on the Roman policy in regard to conquest contains, in substance, Bonaparte's whole policy. It is just because the First Consul was wholly Roman and wholly classic in his genius that he so well understood the Frenchmen of his time, and so easily persuaded them that in obeying his wishes they were still exercising their sovereign power. There certainly were reminiscences of Alexander, and probably of Montesquieu's Alexander, in the wondrous dreams cherished by the commander-in-chief at Ancona, impelling him toward Greece and the Orient. We recognize more than one feature of Charlemagne as portrayed in "The Spirit of the Laws" in the colossal vision of this emperor formed by Napoleon and constantly haunting his imagination after the Consulate.

How can we help discerning the French empire in those pictures of Rome which, if composed afterward, would pass for allusion or satire, and which, composed as they were half a century before, seem to be fragments of

prophecy? We see it in that overweening passion of a whole people for glory; in that need of dazzling men in order to subject them; in that "war for reputation" which the boldest and most ambitious leader makes upon his rivals; in that art of attacking these rivals "with their own weapons, — that is, by gaining victories over the enemies of the Republic;" in that picture of imperial Rome, properly speaking neither empire nor republic, but the head of a body formed by all the nations of Europe; in the association of these nations, which have nothing in common but their common allegiance, and which bind themselves by the very bonds of their conquest; in the kings that Rome had everywhere planted only to make them slaves, who finally turn against her the resources she has dealt out to them; in the impossibility of sustaining "to the very last an enterprise that could not fail in one country without failing in all the rest, nor fail for one moment without failing forever;" finally, in the destruction of Rome by the combined attack of all the nations investing and assailing it on all sides, — that fatal result of the Roman policy of which Montesquieu forewarns any one who shall enter again upon the same career. "If a ruler should now make such ravages in Europe, the nations, driven

toward the north, would stand at bay at the ends of the world until the moment when they could deluge Europe and conquer it a third time." Let us conclude with the words of "Eucrates," that is, of Montesquieu: "To give one man supremacy over mankind costs all other men too dear."

CHAPTER X.

MONTESQUIEU'S FOLLOWERS IN POLITICS AND HISTORY. — MONTESQUIEU AND CRITICISM.

THE restoration of royalty in France in 1814 restored to politics that second line of Montesquieu's followers which the Revolution had proscribed and which the Empire had absorbed in the senate or in the council. They regained power under conditions permitting them to make a thorough test of the constitutional monarchy that had broken down in 1791.

Chateaubriand at first aspired to compose a new "Spirit of the Laws" in his "Essay on Revolutions;" but he accomplished little more than to transpose Montesquieu's formulas and exaggerate to a ridiculous degree his mannerisms. He suitably praised and admired Montesquieu in "The Genius of Christianity;" and developed many select maxims in his "Monarchy as Based on the Charter." Benjamin Constant, in his "Reflections on the Constitution," was inspired by the chapters on political

liberty in "The Spirit of the Laws." The *Doctrinaires* tried to correct Montesquieu's classification of governments by applying to democracy and monarchy the following thought from Pascal: "The many, when not subject to one, produce anarchy; the one, when independent of the many, produces tyranny." Louis XVIII. had read "The Spirit of the Laws" merely as a man of intelligence, when he was but a claimant to the crown; once upon the throne he interpreted it with royal prudence. The ministries of the Duke de Richelieu and of M. de Martignac, the fine episode of Count de Serre's discussion of the laws controlling printing, the speeches of the Duke de Broglie and of Royer-Collard against the disastrous law of sacrilege, all manifest Montesquieu's spirit in a government which was no doubt at that time just what he would have desired.

Talleyrand carried this same spirit into diplomacy. From his youth he had been imbued with it. The paper he wrote at London, in November, 1792, on the objections to a policy of conquest, proves this statement. This spirit is again found, expressed with a loftiness of view and a skill in composition perhaps never equalled in a diplomatic document, in the "Instructions" which Talleyrand caused to be

given to himself for the Congress of Vienna in 1814, and which were drawn up by La Besnardière under his direction. The conception of Europe and the definition of international law are borrowed from Montesquieu. The picture of Prussia is one of the most brilliant pieces of this literary school. In fact, we seem to recognize a quotation in the passage beginning: "Poland restored to independence would be inevitably restored to anarchy." The elucidation of this is like an unpublished chapter of "The Spirit of the Laws." We find the very essence of that work in this maxim summing up the whole drift of the "Instructions": "France is so happily situated as not to find it desirable that justice and advantage should part company, and not to seek its private advantage apart from the justice which is the advantage of all."

Not only Montesquieu's thought, but his manner and even his comparisons, revive spontaneously under the pen of Talleyrand. The latter in one of his Vienna notes avails himself of a very beautiful but rather bold figure from the "Considerations," amending it as he adopts it. "France," says Talleyrand, "had no ambitious aim nor personal interest to bring to the Congress. Restored to her ancient boundaries, she no longer

dreamed of extending them, — like the sea, which breaks over its banks only when it has been lashed by tempests." Montesquieu had written less aptly when he made the following reflection: "It is wonderful that after so many wars the Romans should have lost only what they had voluntarily abandoned, — like the sea, which never contracts its limits except by its own proper ebb."

This allusion to the "Considerations" leads us to history, in which Montesquieu's following is quite as large as in politics. In history he has taught the concatenation of facts, the relation of causes, the ramification of events, the explanation of the laws by history, and the interpretation of history by manners and customs. From him evidently proceed the whole school of constitutional history and that of the modern philosophy of history. Guizot is not in the direct line of descent from Montesquieu; but though he is the most independent and original of disciples, he is still a disciple of the author of "The Spirit of the Laws." He was Montesquieu's successor during the first half of this century, in the character of initiator and founder of the science of history. "Guizot, as the historian of our ancient institutions, began," says Augustin Thierry, "the scientific era, properly so called; before him, Mon-

tesquieu alone excepted, there had been only systems." Guizot applied to history the idea of progress of which Montesquieu had a presentiment, but no clear conception; Turgot and Condorcet set it forth clearly; Guizot made of it the very spirit of civilization which he defines as "the progress of society and humanity toward perfection." This idea of progress formed the very woof of history, as he unfolded it with admirable fulness in his lectures in 1828.

Madame de Staël had been among the first to adopt this conception of perfectibility. She had combined it, in her "Influence of the Passions," with many thoughts derived from "The Spirit of the Laws." She again took up this idea in her book on "Germany," and set it forth with a hearty warmth and a kind of religious enthusiasm wanting in Montesquieu's less sensitive and more rational humanity. Her latest and strongest work, "Considerations on the French Revolution," begins with a maxim which, according to "The Spirit of the Laws," lies at the basis of French history: "Liberty is ancient, and despotism modern." By writing the history of liberty from 1789 to 1814, Madame de Staël really composed the history of Montesquieu's ideas through the period of the Revolution and the Empire.

The monarchical branch of Montesquieu's sons attained its highest fortune under the Restoration. They had founded that government; they only would have been capable of maintaining it and keeping it constantly true to its principle. In this attempt they failed. These moderate politicians did not succeed in making the theocrats of the restored monarchy understand that the abstract word "legitimacy" means nothing in itself; that the right they claim to derive from it is merely a prescriptive right, which, in order not to be annulled, must be continually renewed; that new governments become legitimate, according to Bossuet, and old ones sustain themselves, according to Montesquieu, "only through the lapse of time and by the consent of the people." "The government which is most conformable to nature," Montesquieu had said, "is the one whose peculiar constitution answers best to the disposition of the people for whom it is established."

Montesquieu's royalist disciples fell from power with the fall of the constitutional monarchy. France once more had to choose between "a democratic and a despotic government." Democracy was here developed on old monarchical ground, in a nation of more than thirty million souls, a nation civilized to

the point of refinement, conceiving of no social progress without progress in wealth, — a commercial, industrial people, loving luxury and living in it. Such a democracy put to rout all the notions of "The Spirit of the Laws." Montesquieu, after being his country's beneficent adviser upon so many grave occasions, would have failed her at this juncture if his genius had not raised up a man to continue his work and to propagate his ideas in modern France. This man was Tocqueville. He represents the last branch of Montesquieu's intellectual descendants. This branch of the family maintained throughout the Revolution, the Empire, and the Restoration an attitude of opposition sometimes eager, sometimes reserved, always uneasy, and often melancholy. Attached heart and soul to liberty, loving it for its own sake, desiring it for their country, and considering the advent of democracy as henceforward inevitable, these far-sighted patriots sought to harmonize this revolution with French traditions. They sought from the United States instruction analogous to that which their elders had sought from England when the question was how to harmonize monarchy with the national liberties.

Tocqueville's mind, like Montesquieu's, was fitted for generalization and the assertion of

dogmas. He was at heart less of a legislator, and above all less of a politician, than he was a moralist. As to method and division in the treatment of his subject, his procedure is wholly based upon Montesquieu's. He, too, has his great historical study, "The Old Régime and the Revolution," corresponding to the "Considerations on the Romans;" and he has his "Democracy in America," corresponding to "The Spirit of the Laws." During the second half of the century he gave to political and historical studies an impulse less signal doubtless, and less acknowledged, but as efficacious and as fruitful in results, as that given during the first half by Guizot. Through him Montesquieu is connected with contemporary France, where he still exerts an influence more widespread than we are inclined to believe. We have to thank his wholly historical and experimental spirit, gradually pervading our institutions and our habits, that the rational mechanism of Sieyès has been abandoned in favor of the applied mechanism of practical men; that the Republic has become parliamentary, and has been established in France as the result of a constitution the most summary in its text, the most customary in its application, the most natural outcome of our manners and of the

force of circumstances, that France has yet possessed.

Montesquieu's influence on Europe is commensurate with his influence on France. From the end of the last century it is everywhere apparent. It is the very genius of "The Spirit of the Laws" that seems to inspire, in the work of regenerating his adoptive country, the greatest statesman that Germany has produced. Never was the ruin of a government by the corruption of its principles more clearly exemplified than by the downfall of the Prussian monarchy after Jena; never was the art of retrieving a nation's losses and restoring a monarchy by going back to first principles and by renewing these principles where they had been altered, practised with more depth and insight than by Baron von Stein.

Constitutional government passed over from England to the continent, conveyed by Montesquieu's work, and was there propagated by French example. The two chapters of "The Spirit of the Laws" on England and her constitution have thus become a distinct work, and have marked one stage in the history of human society. It is often less by their direct rays than by their diffused light and by the reflection of their satellites that great thinkers enlighten men.

Much has been written about Montesquieu.[1] It would seem difficult to be more liberal in defence than was Villemain in his "Eulogy" and his "Lectures on Literature in the Eighteenth Century;" or to be narrower and more trenchant in contradiction than Destutt de Tracy in his "Commentary on the Spirit of the Laws." Tracy's criticism, wholly speculative and *a priori*, is not such as we look for to-day. A comparison between a great author's writings and the theory which the critic may have constructed for his private guidance is of little value to us. This procedure implies on the critic's part a definitive science such as no one has ever possessed, and on the reader's part a boundless deference such as is cherished only by dunces. We ask of criticism to make us acquainted with men, to explain the origin

[1] A bibliography of Montesquieu's original editions and of the works written concerning him may be found by the reader at the end of M. Vian's "History of Montesquieu." I have made use of this book, keeping in view the strictures that have been made upon it by M. Brunetière and M. Tamizey de Larroque, as well as the researches of M. Tourneux. I have placed under contribution the inexhaustible stores of Sainte-Beuve's "Mondays" and "Port-Royal." I have found most useful information and guidance in the "Ancient City," by M. Fustel de Coulanges, and in "Civilization and its Laws," by M. Funck-Brentano, particularly in Book I. of this work, entitled "Manners and Laws: Political Customs in Democracies and in Monarchies."

and real meaning of their works. M. Paul Janet in his "History of Political Science," M. Laboulaye in the "Notices" of his great edition of Montesquieu, M. Taine in a few masterly pages of his "Old Régime," have shown how this fruitful method of criticism should be applied to the author of "The Spirit of the Laws." All three admire his genius, praise his method, and in general agree with his main conclusions.

Sainte-Beuve only half agrees, and this with endless restrictions. We find in his writings the gravest objections that have been made to Montesquieu, under their most winning guise. Besides his formal notice of Montesquieu, Sainte-Beuve has referred to him again and again, approaching the subject from all sides and in all its bearings in his "Mondays" and his "Port-Royal." He is fascinated by the man, charmed by the writer, disquieted by the work, provoked by the historian, bewildered by the legislator.

He accuses the legislator of having too high an estimate of average humanity, of sacrificing too much to social distinctions and to regard for public opinion, of not taking sufficient account of the original depravity always latent in man, of concealing — more than he ought — beneath the drapery of society the human gar-

ment of rags. Sainte-Beuve does not see that, in the great sanitary science of politics, optimism is the essential condition, the soul of the whole enterprise. How shall we govern man if we believe him ungovernable; how improve him if we believe him incapable of improvement; how stimulate him to effort, and by this very effort restore activity to his muscles, if we believe him enervated and paralyzed forever? Supposing him really sick, how cure him or subject him to treatment if we begin by proving that his vitality is exhausted, that his disease is incurable, and that vitality and cure are, after all, mere figures of speech; that we do not know exactly what either health or disease is; that in the last analysis all science consists in the description of a healthy man, and all practice in saying to suffering humanity, "Do try to feel better"?

Sainte-Beuve thought that Montesquieu, as a historian, neglected too much men's inconsistencies and fortune's caprices. In his opinion Montesquieu makes matters too simple and arranges everything too methodically, takes no account of accidents, sets apart certain episodes in the struggle to give them a show of reason which they never had; he considers only those operations that have produced results, and leaves out all those that have broken down

under way; amid the thousand ways in which an event might have turned out, he chooses only the way in which it did turn out; he suppresses the unforeseen; he disregards "the truth concealed in the intrigue and masquerade of human life;" and though he professes to be blazing out highways, really only bends his way — his great royal highway — "in quest of illustrious men." Leaving out of view Providence, which reveals none of its secrets, there is nothing in this disorderly world, according to the author of "Port-Royal," but strength, skill, and luck. Pascal had seen the Fronde, reflected on the Revolution in England, and sought the heart of things; and he saw everywhere only the play of chance, — Cleopatra's nose, Cromwell's grain of sand. Such was the inevitable conclusion reached by this great thinker. This applies to the men who claim to be leaders; as for those who are supposed to be led, those obscure masses accomplish great things, but are not conscious of it. Great revolutions and great victories are the work of unconscious actors; all depends on the motions of unknown blind men as they grope about in their darkness.

Such are the objections. Mystic and Epicurean, devotee and doubter, Pascal and Montaigne, Hobbes and La Rochefoucauld, meet

on this ground, and though they do not all agree, here make common cause. Frederick liked to teach such Pyrrhonism, and had motives for his left-handed support of the ironical doctrine that in this world "success clothes itself with right as best it can." "Ordinarily," said he, "we get a superstitious notion of great revolutions in government; but when we can go behind the scenes, we see that the most magical effects are produced by the movements of common springs and worthless rascals." People are fond of cherishing the vain thought that they are admitted behind the scenes; how many chroniclers have ascribed great effects to trifling causes, solely to be able to boast that they had perceived them! Voltaire put faith in Frederick's sally and served Frederick's designs, thinking himself, as Frederick persuaded him, merely in the service of chance. Of this service the philosopher was proud, and the king treated him, as such famous leaders of men are wont to treat their dupes, as a political cat's-paw. Sifted by the principle he stated, what would remain of Frederick himself, of his campaigns and his policy? Montesquieu confutes him with a line, and restores him to himself and to his proper glory. "Fortune never exhibits this kind of constancy."

It is true of the phenomena of history, as of those of physical nature, that chance alone cannot cause them to be repeated in regular succession under identical conditions. This succession has its laws: facts are not merely thrown together or isolated; they are interdependent and connected. Only the form of the event depends on chance. The waters of a river issue from the mountain and flow toward the sea: a stone may turn them aside, but does not drive them back to their source; it does not change the general course imposed upon them by all the undulations of the earth's surface. Thus above individual action — the action of the isolated human cause — there is social action, the living resultant of individual causes taken together. This is "the general tendency involving all special accidents." By virtue of this principle, if Cæsar had not come some other man would have taken Cæsar's place. Montesquieu never made it clearer than by this instance: "So impossible was it that the Republic should be again set up, that an unheard-of thing occurred, — a time came when neither tyrant nor liberty longer existed, for the causes which had destroyed liberty subsisted still."

The historian determines and unfolds these causes. He follows, as is said, the king's high-

ways of history, but these are also the nation's and the people's highways. The historian traces upon his map the path humanity has trod. It is the broad and direct road of history. Why leave it to beat about the bush? Why wander over all the hill-slopes and vainly strive to track all stragglers? The first-comers, as they crossed the mountains on foot, made paths by the torrents' courses; the roads followed these paths; the highways enlarged the roads; and the railroad engineers, in their turn, have followed the lines of the highways.

Between Montaigne, that brimming flood of human irony, and Pascal, that abyss of reason ingulfed by its own profundity, there is a scientific middle ground in reflection and common sense, and this ground is occupied by Montesquieu. He is pre-eminently the social and political man of honor, thinking nothing human alien to him, seeking self-knowledge that he may know others better, and making known to men their condition, that he may teach them to render it more endurable. His works abide because they are historical and rest upon observation of Nature. That his general views are correct is the essential thing; his errors in detail are of little importance. Villemain has well said: "In a work of this kind such errors are of no more account than

fractions in a large reckoning." Montesquieu left something better than precepts, — he left a method making it possible to develop his thought, and to apply it to cases that he could never have foreseen. He produced a deep and lasting effect upon his own time, and is still full of instruction for ours. His name is associated with many of the best reforms that have been brought about within the past century. He is representative of the French national mind in all that is exactest, broadest, wisest, and most liberal.

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